

TOBACCO GROWING INDUSTRY AMENDMENT BILL

EXPLANATORY NOTE

This Bill has as its basic object the implementation of the recommendations, in some instances modified, of the Committee of Inquiry into the New Zealand Tobacco Growing Industry.

Ten basic amendments or additions to the Act are provided for in this Bill. These are:

A. The reconstitution of the Tobacco Board

At present the Board consists of 10 members: a Chairman appointed on the advice of the Minister; an officer of the Department of Industries and Commerce appointed by the Minister; 4 growers' representatives elected by the growers, and 4 members representing the manufacturers. The Bill provides for a reconstituted Board comprising 9 members: a Chairman appointed by the Governor-General on the advice of the Minister; a person nominated by the Minister after consultation with growers and manufacturers; the person from time to time being the Horticultural Superintendent of the Nelson Branch of the Department of Agriculture; 3 growers' representatives elected by the growers, and 3 members representing the manufacturers.

B. The establishment of a Tobacco Quota Committee

This Committee of the Board is to consist of 4 members: the Horticultural Superintendent of the Nelson Branch of the Department of Agriculture, and the 3 growers' representatives on the Tobacco Board.

The basic function of the Committee is the determination of applications for licences to grow tobacco, a function at present carried out by the Board. Its other functions include the determination of applications to transfer licences and of applications to increase the amount of the "quota" stated in the licence. This term is explained below. In addition it is to have the power to revoke licences and reduce the amount of the "quota."

An appellate tribunal, the Tobacco Quota Appeals Tribunal, is to determine appeals from decisions of the Committee. It is to consist of 3 persons: a barrister appointed by the Governor-General, and 2 further persons appointed by the Governor-General who are acceptable to the growers' representatives on the Board.

C. The alteration to the character of a licence

At present licences to grow tobacco are granted for 1 year, at the end of which a grower must reapply. Under the Bill a licence will continue in force until surrendered by the licensee or revoked by the Committee. The licensee will therefore have greater security and his land, geared to the demands of a specialised crop, a stabilised salable value. The security thus provided will establish a basis for the exploitation of the domestic industry under which the productivity and qualitative performance of domestic leaf may be increased in order that such leaf may be progressively substituted for imported leaf.

D. The introduction of a "quota"

The term "quota" is defined in the Bill as "the quantity of tobacco leaf falling within the salable grades of the Schedule of Standard Grades approved by the Board". Each licence is to express the quota granted to the licensee. Quotas are to provide the basis upon which "adjusted quotas" are determined. During each season the Tobacco Quota Committee is to determine an adjusted quota for every licensee. The adjusted quota will represent the quantity of quota leaf for which the licensee is guaranteed a purchaser for that season. A grower is free to produce more leaf than the quantity expressed in his adjusted quota, but in regard to this "over-quota" leaf he is not assured of a purchaser.

E. The abolition of warrants to sell and growing contracts with manufacturers

Under the present Act growers require a warrant before they are entitled to sell tobacco leaf. To secure such a warrant they must have a growing contract with a manufacturer. Under the Bill a grower does not enter into a growing contract with a manufacturer. His adjusted quota is allocated to a manufacturer by the Committee and the manufacturer must purchase that adjusted quota, or such part of it as the grower produces. Manufacturers are, however, protected from being required to purchase more quota leaf than they need: before the commencement of each season they are required to furnish the Board with a statement of their requirements for the coming season, and they are not to be allocated adjusted quotas in excess of these requirements. They are also protected against receiving less than their requirements (through the failure of licensees to meet the adjusted quotas allocated to them) by the provision that the Board shall allocate any over-quota leaf to make up deficiencies.

F. The Classification of quota leaf by persons appointed by the Minister

No provision is made under the present Act for the classification of tobacco leaf, nor for the basis upon which classification shall take place. At present leaf is classified in accordance with manufacturers' schedules which may vary from year to year. The Bill provides for the classification to be made by persons appointed by the Minister on the advice of the Board and that leaf be classified in accordance with and on the basis of a schedule of grades approved by the Board.

G. The price of quota leaf is to be fixed by the Minister on the advice of the Board

At present the price of leaf is fixed by the Price Tribunal. The Bill provides that the price for each grade of leaf within the Schedule of Standard Grades shall be fixed by the Minister on the advice of the Board. The prices thus fixed are to remain operative until altered by the Minister on the Board's advice.

The Bill also provides that the average price per pound of all tobacco leaf produced in any season shall not fall below the seasonal average price. This price is to be fixed each season by the Minister on the advice of the Board.

H. An equal levy on domestic and imported tobacco leaf

The Act provides for a levy on tobacco grown in New Zealand. The Bill provides that this levy shall apply to all tobacco leaf used in manufacture.

I. A requirement that manufacturers use 30 per centum of domestic leaf in all brands

The Bill requires each manufacturer to use at least 30 per centum of domestic leaf in all brands of cigarette and tobacco it manufactures.

J. The granting of further functions to the Board

The Bill provides that the Board shall be required to promote the orderly development of the tobacco growing industry and ensure the adoption of measures designed to increase its efficiency. The Board is given certain specific powers and authorities to carry out these functions, including the power to promote measures for the qualitative improvement in tobacco leaf. Under the Act the Board has merely a discretionary power to endeavour to promote the sale of raw tobacco leaf.

Clause 1 relates to the Short Title and commencement. With the exception of clause 33, which is to come into force on a day to be determined by the Minister on the advice of the Board, the Bill is to come into force on the 1st day of January 1972.

Clause 2 is an interpretation clause.

Clause 3: This clause repeals section 3 of the principal Act and provides for a new section 3 of that Act. The inserted section establishes a Board of 9 members.

The Chairman is to be appointed by the Governor-General on the advice of the Minister, after consultation with the growers' and manufacturers' representatives on the Board.

One member is to be appointed by the Minister with the consent of the growers' representatives on the Board.

One member is to be the Horticultural Superintendent of the Nelson Branch of the Department of Agriculture.

Three are to be elected by growers, and 3 to be appointed by the Governor-General on the Minister's recommendation after consultation with persons representing manufacturers.

Subclause (3) provides that subject to subclause (4) the present members of the Board are to remain in office until their successors are appointed. Subclause (4) requires the growers' representatives and manufacturers' representatives at present on the Board to determine by agreement or where there is no agreement to determine by lot that representative from each category to retire upon the coming into force of this Bill.

Clause 4: This clause repeals section 4 of the principal Act (as amended), and provides for a new section 4 of that Act. The new section prescribes the terms of office of the members of the newly constituted Board.

The Chairman and that member appointed by the Minister with the consent of the growers' representatives are to hold office for terms of 3 years but may from time to time be reappointed.

The Horticultural Superintendent is to hold office during such time as he remains Horticultural Superintendent.

Growers' representatives and manufacturers' representatives are to hold office for 3 years. One representative of each category is to retire on the 15th day of August in each year.

Clause 5: This clause repeals section 3 of the Tobacco Growing Industry Amendment Act 1951 and provides for the election of growers' representatives in the manner prescribed by the clause and by regulations.

Clause 6: This clause provides that growers' representatives and manufacturers' representatives retiring from the Board shall be eligible for re-election or reappointment.

Clause 7: This clause amends section 10 of the principal Act. Its effect is to provide that the person appointed to the Board by the Minister after consultation with growers and manufacturers shall be a voting member of the Board and be counted in any determination of a quorum.

Clause 8: This clause establishes a Committee of the Board to be known as the Tobacco Quota Committee. Subclause (2) provides that the Horticultural Superintendent and the growers' representatives on the Board shall be the members of the Committee.

Clause 9: This clause provides that the members of the Committee shall remain members thereof for such time as they are members of the Board.

Clause 10: This clause provides that if a growers' representative ceased to be a member of the Committee before the time for the expiration of his term of office on the Board, the person appointed or elected to the Board in his stead shall become a member of the Committee for the residue of the term of the vacating member.

Subclause (2) provides that if the Horticultural Superintendent ceases to be a member of the Board but retains the post of Horticultural Superintendent, the Chairman of the Board shall become Chairman of the Committee until the appointment of a new person to the office of Horticultural Superintendent.

Clause 11: This clause requires the Board to appoint a member of the Committee to be the Deputy Chairman of the Committee.

Clause 12: This clause prescribes the convening of and procedure at meetings of the Committee.

Meetings are to be convened by the Chairman who must give 7 days' notice thereof (unless the Committee otherwise decides).

Three members of the Committee shall constitute a quorum.

The Chairman or, in his absence, the Deputy Chairman, shall preside at meetings of the Committee, and shall have a deliberative and a casting vote.

The Chairman may refer questions required to be determined by the Committee to the members in writing and a decision in writing by a majority of members shall have the same effect as a decision made at a properly constituted meeting.

No member of the Committee shall exercise a vote in regard to any matter touching upon a licensee's quota or adjusted quota in respect of which he has any interest.

Clause 13: Subclause (1) declares the Committee to be a Statutory Board for the purposes of the Fees and Allowances Act 1951.

Clause 14: This clause amends section 11 of the principal Act by the insertion of a new subsection empowering the Board to appoint officers and servants of the Committee.

Clause 15: Subclause (1) of this clause repeals section 13 of the principal Act and replaces it with a new section 13 which authorises the Committee to grant licences to grow tobacco. The Committee is directed not to refuse licences to persons holding licences in respect of the 1970-71 season, unless it is satisfied that there are compelling reasons to so refuse. Any licences granted are to specify the quota determined by the Committee and the land on which the adjusted quota is to be produced. It is to be a condition of every licence that the licensee use only those sprays or insecticides as are approved by the Tobacco Research Committee.

The new section 13 also provides that licences are to remain in force until surrendered by the licensee or revoked.

Subclause (2) repeals sections 14, 15, and 16 of the principal Act. These provisions relate to warrants to sell, which are not required under this Bill.

Clause 16: This clause provides that a licence granted by the Committee shall attach to the licensee and the land specified in the licence.

Clause 17: This clause provides that licences granted by the Committee shall be transferable with the written consent of the Committee.

Clause 18: This clause gives the Committee power to revoke a licence or reduce the amount of a licensee's quota, should a licensee fail for 3 successive years to plant a sufficient acreage to tobacco to produce his licensee's quota, or fail for 4 successive years to produce his licensee's quota, or secure a licence by a false document or representation.

Clause 19: This clause gives a licensee the right to apply for an increase in his licensee's quota.

Clause 20: This clause requires the Committee to determine, in relation to each licence, an adjusted quota for each season.

Clause 21: This clause establishes the Tobacco Quota Appeals Tribunal.

Subclause (2) provides that the Tribunal shall consist of 3 members.

The Chairman is to be a barrister and is to be appointed by the Minister.

The remaining 2 members are to be appointed by the Minister on the nomination of the New Zealand Tobacco Growers' Federation. No member of the Board shall be appointed to the Tribunal.

Clause 22: This clause provides that each member of the Tribunal shall hold office for 3 years but may be reappointed.

Clause 23: This clause provides that any member of the Tribunal may be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct. The clause also entitles a member to resign at any time.

Under subclause (3) vacancies may be filled by an appointment made in the same manner as the appointment of the vacating member. Persons appointed to fill vacancies are to hold office for the residue of the term of the vacating member.

Clause 24: This clause authorises the Governor-General to appoint deputy members of the Tribunal.

Clause 25: This clause provides for the convening of and procedure at sittings of the Tribunal.

Sittings are to be convened by the Chairman who must give 7 days' notice thereof (unless the Tribunal otherwise decides).

At all sittings 2 members, 1 of whom must be the Chairman or his deputy, shall constitute a quorum.

The Chairman or his deputy shall have a deliberative vote but no casting vote.

Clause 26: Subclause (1) declares the Tribunal to be a Statutory Board for the purposes of the Fees and Travelling Allowances Act 1951.

Clause 27: This clause amends section 11 of the principal Act by the insertion of a new subsection empowering the Minister to appoint officers and servants of the Tribunal.

Clause 28: This clause provides for appeals to the Tribunal from determinations of the Committee.

Subclause (2) provides that the only grounds of appeal are that the Committee's decision was reached in contravention of the terms of the Act, or that the decision of the Committee would cause severe personal hardship to the appellant.

Subclause (5) provides that the decision of the Tribunal shall be final and conclusive.

Clause 29: Subclause (1) of this clause requires each manufacturer to specify in writing its requirements of domestic leaf for the coming season by the 1st day of June in each year.

Subclause (2) requires each manufacturer to specify in writing its anticipated requirements of domestic quota leaf for the 2 seasons following the season in respect of which specification is required under subclause (1) by the 1st day of June in each year.

Subclause (3) requires each manufacturer to purchase the amount specified by it under subclause (1) in the season following such specification. Each manufacturer is to purchase leaf only from those licensees whose adjusted quotas are, or over-quota leaf is, allocated to it.

Clause 30: This clause requires the Board to determine the national tobacco quota for each season. This quota is to represent the total of the quantities specified by manufacturers under subclause (1) of clause 29 of this Bill.

Clause 31: This clause requires licensees prior to the commencement of each season, to provide the Board with names of manufacturers, expressed in descending order of preference, to whom they desire their adjusted quotas to be allocated for the coming season.

Clause 32: This clause requires the Board to allocate adjusted quotas to manufacturers in such a manner as to assure as far as possible that the total of the adjusted quotas allocated to each manufacturer corresponds with that manufacturer's requirements as specified under subclause (1) of clause 29 of this Bill.

The Board shall not allocate adjusted quotas the total of which exceeds those specified requirements.

Clause 33: This clause requires quota leaf to be classified, prior to its purchase, by persons appointed by the Minister on the advice of the Board into those grades appearing in a Schedule of Standard Grades approved by the Board.

Subclause (2) provides that this clause shall come into effect on a day to be determined by the Minister on the advice of the Board.

Clause 34: Subclause (1) requires the price of each grade of quota leaf within the Schedule of Standard Grades approved by the Board to be fixed by the Minister on the advice of the Board. The prices so fixed are to remain operative until altered by the Minister on the Board's advice.

Subclause (2) provides that the average price per pound of all quota leaf produced in New Zealand shall not in any season be less than the seasonal average price. The seasonal average price for each season shall be determined by the Minister on the Board's advice.

Clause 35: This clause requires manufacturers to make payment to the licensee or his nominee within 14 days of the purchase of quota leaf.

Clause 36: This clause regulates the situation when any licensee produces quota leaf in excess of his adjusted quota, or any leaf not of salable grades. In respect of any over-quota leaf the Board is required first, to allocate it to meet any shortfall experienced by any other licensee, and secondly, to offer it for sale to any manufacturer or other person. In respect of any leaf of non-salable grades it is to offer it for sale to any manufacturer or other person.

Clause 37: This clause requires each manufacturer to use, in every brand of cigarette and tobacco manufactured by it, domestic leaf constituting not less than 30 per centum of the total leaf used.

Clause 38: This clause amends section 24 of the principal Act by prescribing a specific penalty for breaches of clauses 29 or 37 of this Bill.

Clause 39: This clause repeals section 19 of the principal Act (which section imposes a levy on leaf grown in New Zealand only) and provides that all leaf, whether domestic or imported, used in the process of manufacture shall be subject to such charges as the Board determines.

Clause 40: Subclause (1) of this clause repeals section 18 of the principal Act.

Subclause (2) provides that the Board's principal functions are the promotion of the orderly development of the industry, the promotion of measures designed to expand the industry's production, and the ensuring that efficient practices are adopted.

Subclause (3) prescribes the powers the Board is given to carry out its functions.

Clause 41: This clause gives the power to make regulations under section 26 of the principal Act prescribing:

- (i) Criteria upon which applications for licences are to be determined;
- (ii) Conditions upon which tobacco leaf may be exported; and
- (iii) The compilation, issue and use of standard forms of farm working accounts and balance sheets.

Clause 42: This clause makes amendments to the principal Act consequential upon the foregoing clauses of this Bill. In addition, subclause (1) amends section 20 of the principal Act by inserting a paragraph therein empowering the Board to apply moneys received by it in payment to the New Zealand Tobacco Growers' Federation for the financing of the Federation's operations.

Mr Rowling

TOBACCO GROWING INDUSTRY AMENDMENT

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A BILL INTITULED

An Act to amend the Tobacco Growing Industry Act 1935

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

No. 68—1

1. Short Title and commencement—(1) This Act may be cited as the Tobacco Growing Industry Amendment Act 1971, and shall be read together with and deemed part of the Tobacco Growing Industry Act 1935 (hereinafter referred to as the principal Act).

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(2) This Act shall come into force on the 1st day of January 1972, unless in respect of particular provisions of this Act it is otherwise provided.

2. Interpretation—In this Act, unless the context otherwise requires,—

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“Board” has the meaning assigned to it by section 2 of the principal Act:

“Committee” means the Tobacco Quota Committee established under this Act:

“Licensee” means a person to whom a licence to grow tobacco has been granted under this Act:

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“Licensee’s adjusted quota” means the adjusted quota determined by the Committee under this Act:

“Licensee’s quota” means the quota determined by the Committee and specified in a licence granted under this Act:

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“Manufacturer” has the meaning assigned to it by section 2 of the principal Act:

“National Tobacco quota” means the quantity of quota leaf which the Board declares from time to time to be the national tobacco quota:

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“Non-quota leaf” means tobacco leaf falling into the non-salable grades of the Schedule of Standard Grades approved by the Board:

“Quota” means the quantity of tobacco leaf falling within the salable grades of the Schedule of Standard Grades approved by the Board:

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“Quota leaf” means tobacco leaf falling within the salable grades of the Schedule of Standard Grades approved by the Board:

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“Season” means a period of 12 consecutive months commencing on the 15th day of August and ending on the 14th day of August in the following year:

“Shortfall” means the amount in any season by which any licensee’s adjusted quota exceeds the quantity of quota leaf produced by that licensee:

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“Tribunal” means the Tobacco Quota Appeals Tribunal established under this Act.

3. Reconstitution of Tobacco Board—The principal Act is hereby amended by repealing section 3 (as inserted by section 2 (1) of the Tobacco Growing Industry Amendment Act 1965), and substituting the following section:

5 “3. (1) There shall continue to be a Board to be known as the Tobacco Board which shall be the same Board as that constituted by this Act and existing under the same name immediately before the commencement of this section.

“ (2) The Board shall consist of 9 members of whom—

10 “(a) One shall be appointed as Chairman by the Governor-General on the recommendation of the Minister after consultation with growers’ representatives and manufacturers’ representatives on the Board:

15 “(b) One shall be appointed by the Minister after consultation with the growers and manufacturers:

“ (c) One shall be that Officer of the Department of Agriculture who from time to time occupies the post of Horticultural Superintendent of the Nelson Branch of the Department of Agriculture (in this Act referred to as the Horticultural Superintendent):

20 “(d) Three (in this Act referred to as growers’ representatives) shall be elected by growers in accordance with this Act:

25 “(e) Three (in this Act referred to as manufacturers’ representatives) shall be appointed by the Governor-General on the recommendation of the Minister after consultation with persons representing manufacturers.

30 “(3) Subject to the provisions of subsection (4) of this section, the Chairman and members of the Board in office at the commencement of this section shall continue in office until their successors are appointed or elected in accordance with this Act, and shall then retire from office.

35 “(4) At a special meeting of the Board to be held immediately following the commencement of this section the growers’ representatives and the manufacturers’ representatives shall determine by agreement or failing agreement to

determine by lot that growers' representative and that manufacturers' representative to be retired from the Board, and the representatives so determined shall retire immediately."

4. Terms of office—The principal Act is hereby amended 5
by repealing section 4 (as amended by section 5 of the
Tobacco Growing Industry Amendment Act 1951 and section
3 of the Tobacco Growing Industry Amendment Act 1965),
and substituting the following section:

"4. (1) The Chairman of the Board shall hold office for 10
a term of 3 years but may from time to time be reappointed.

"(2) The person appointed under paragraph (b) of sub-
section (2) of section 3 of this Act shall hold office for a
term of 3 years but may from time to time be reappointed.

"(3) The person appointed under paragraph (c) of sub- 15
section (2) of section 3 of this Act shall hold office during
such time as he continues to hold the post of Horticultural
Superintendent.

"(4) On the 15th day of August in each year, that growers'
representative who has been longest in office shall cease to 20
be a member of the Board:

"Provided that if in respect of the retirement of a growers'
representative on the 15th day of August 1972 2 such repre-
sentatives have equally the longest term of membership,
that representative to retire shall be determined from 25
between those 2 persons by lot.

"(5) On the 15th day of August in each year, that manu-
facturers' representative who has been longest in office shall
cease to be a member of the Board:

"Provided that if in respect of the retirement of a manu- 30
facturers' representative on the 15th day of August 1972 2
such representatives have equally the longest term of mem-
bership, that representative to retire shall be determined from
between those 2 persons by lot."

5. Election of growers' representatives—(1) Section 3 of 35
the Tobacco Growing Industry Amendment Act 1951 is here-
by repealed.

(2) The vacancies created by the retirement of growers'
representatives in accordance with the provisions of sub-
section (4) of section 4 of this Act shall be filled by the 40
election of members as hereinafter provided.

(3) On, or within 14 days prior to, the 15th day of August in each year, an election shall be held for 1 member of the Board to hold office as a growers' representative.

(4) The growers' representative elected to the Board shall
5 be elected by growers in the manner prescribed by regulations made under the principal Act.

6. Retired representatives eligible for reappointment—Any growers' representative or manufacturers' representative retiring from membership of the Board under the provisions
10 of subsections (4) or (5) of section 4 of the principal Act shall be eligible for re-election or reappointment.

7. Meetings of Board—(1) Subsection (4) of section 10 of the principal Act (as amended by subsection (1) of section 5
15 of the Tobacco Growing Industry Amendment Act 1965) is hereby repealed and the following subsection inserted:

“(4) At all meetings of the Board 5 members, of whom 1 shall be the Chairman or his deputy, shall form a quorum.”

(2) Subsections (8) and (9) of section 10 of the principal
20 Act (as inserted by subsection (2) of section 5 of the Tobacco Growing Industry Amendment Act 1965) are hereby repealed and the following subsection inserted:

“(8) Subject to the provisions of this Act and any regulations thereunder, the Board may regulate its procedure in such manner as it thinks fit.”

8. Establishment of the Tobacco Quota Committee—

(1) For the purposes of this Act there shall be a committee of the Board to be known as the Tobacco Quota Committee.

(2) The Committee shall consist of 4 members, namely—

(a) The Horticultural Superintendent, who shall be the
30 Chairman of the Committee; and

(b) Those persons holding office on the Board as growers' representatives.

9. Terms of office of Committee members—The Chairman and members of the Committee shall continue as members
35 thereof during such time as they hold office as members of the Board.

10. Vacancies on the Committee—(1) Should any member of the Committee, other than the Chairman, cease to be a member of the Board owing to his death or removal from office under subsection (1) of section 5 of the principal Act (as amended by subsection (1) of section 4 of the Tobacco Growing Industry Amendment Act 1965) or resignation (other than a resignation under subsection (4) of section 4 of the principal Act), the person elected or appointed to fill that vacancy on the Board shall become a member of the Committee and shall hold office on the Committee for the residue of the term of the vacating member.

(2) Should the Chairman of the Committee cease to be a member of the Board for any reason, but retain the post of Horticultural Superintendent, the Chairman of the Board shall become Chairman of the Committee:

Provided that the Chairman of the Board shall cease to be the Chairman of the Committee upon the appointment of a new person to the post of Horticultural Superintendent.

11. Appointment of Deputy Chairman—The Board shall from time to time appoint any member of the Committee, other than the Chairman, to be the Deputy Chairman of the Committee.

12. Meetings of the Committee—(1) All meetings of the Committee shall be convened by the Chairman who shall cause at least 7 days' notice in writing to be given to each member of the Committee:

Provided that the Committee may unanimously decide that shorter notice may be given of any meeting either generally or in a particular case.

(2) At all meetings of the Committee 3 members shall constitute a quorum.

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

(4) In the event of the absence of the Chairman from any meeting of the Committee the Deputy Chairman shall be the Chairman of the meeting.

(5) At any meeting of the Committee the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(6) The decision of the Committee on any matter shall be determined by a majority of the valid votes recorded thereon.

(7) Notwithstanding the foregoing subsections of this section, the Chairman of the Committee may at any time refer any question requiring the consideration of the Committee to all members of the Committee in writing and any decision made in writing by a majority of the members of the Committee shall have the same force and effect as a decision made at a properly constituted meeting.

(8) No member of the Committee shall at any time exercise a vote in respect of the allocation, transfer, review, revocation, or reduction of any licensee's quota in respect of which he holds any pecuniary interest, and any member who holds any such interest shall declare such interest to the Committee and shall vacate any meeting of the Committee during any discussion concerning such licensee's quota.

(9) Subject to the provisions of this Act and any regulations thereunder, the Committee may regulate its procedure in such manner as it thinks fit.

13. Remuneration and travelling allowances to members of Committee—(1) The Committee is hereby declared to be a Statutory Board for the purposes of the Fees and Allowances Act 1951.

(2) There shall be paid to members of the Committee remuneration by way of fees, salary, or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951.

14. Officers of Committee—Section 11 of the principal Act is hereby amended by inserting the following subsection:

“(1A) The Board may from time to time, on the request of the Committee, appoint such officers and servants as it deems necessary for the efficient exercise and performance of the Committee's functions and duties under this Act.”

15. Grant of licences—(1) The principal Act is hereby amended by repealing section 13 and substituting the following section:

“13. (1) On application made in the prescribed manner by any person, the Committee may, subject to the provisions of this Act and of any regulations made thereunder, grant to the applicant a licence authorising him to grow tobacco.

“(2) In exercising its functions under this section the Committee shall not refuse a licence to an applicant who it is satisfied was the holder of a licence granted in respect of the 1970–71 tobacco season, unless it is satisfied that there are strong and compelling reasons to refuse a licence to such an applicant.

“(3) Any licence granted under this section shall specify the quota of tobacco leaf determined by the Committee as being the licensee’s quota.

“(4) Any licence granted under this section shall specify the land on which the licensee’s adjusted quota is to be produced.

“(5) It shall be a condition of every licence granted under this section that the licensee, in the growing of quota leaf, use only those insecticides, sprays, or other materials for the control of insects, disease, pests, weed infestation, or suckers as shall from time to time be approved by the Tobacco Research Committee and published by the Board.

“(6) Subject to the provisions of subsection (7) of this section, a licence granted under this section shall continue in force until surrendered by the licensee or revoked under this Act.

“(7) Notwithstanding the provisions of subsection (6) of this section, the Committee may, in special circumstances, grant a licence expressed to be operative for a stipulated period only.”

(2) Sections 14, 15, and 16 of the principal Act are hereby repealed.

16. Licence to attach to licensee and land specified—A licence granted under section 13 of the principal Act (as substituted for in section 15 of this Act) shall attach to the person to whom it is allocated and to the land specified therein and any tobacco leaf produced by a licensee on any land other than the land specified shall not form part of that licensee’s quota or of his adjusted quota.

17. Transfer of licences—A person to whom a licence has been granted shall not transfer that licence to any other person unless the licensee has obtained the prior approval in writing of the Committee.

5 **18. Revocation of licence and reduction of quotas**—

- (1) Where the Committee is satisfied that—
- (a) A licensee has failed for 3 successive years to plant a sufficient acreage of tobacco leaf to produce his licensee's quota; or
 - 10 (b) A licensee has failed for 4 successive years to produce his licensee's adjusted quota; or
 - (c) A licence was granted erroneously in consequence of any false document, statement, or representation,—
- 15 the Committee may by notice call upon the licensee in question to show cause within the time specified in the notice why the Committee should not—
- (a) Revoke the licence; or
 - (b) Reduce the amount of the licensee's quota by such amount as is specified in the notice.
- 20 (2) Where the licensee in question fails to show cause within the time specified in the notice or within any extension of time which the Committee may allow, the Committee may revoke the licence or reduce the licensee's quota in terms of the notice.
- 25 (3) Where a licensee shows cause why the Committee should not revoke his licence, the Committee may, if it thinks fit, reduce the licensee's quota by such amount as it thinks fit.

19. Applications for increases in licensee's quota—(1) Any person holding a licence granted under this Act who desires
30 an increase in his licensee's quota may apply to the Committee for an increase in such quota.

(2) Any application so made shall be made in the prescribed form and in the prescribed manner and shall be made to the Chairman of the Committee.

35 (3) Upon consideration of any application so made the Committee may—

- (a) Refuse the application; or
- (b) Grant the application by increasing the licensee's quota by such amount as it thinks fit.

20. Committee to determine adjusted quotas—(1) On or before the 31st day of October in each season the Committee shall determine in relation to each licensee's quota an adjusted quota for that season.

(2) Each adjusted quota shall be determined by taking 5 into consideration—

- (a) The licensee's quota; and
- (b) The national tobacco quota for that season.

21. Establishment of Tobacco Quota Appeals Tribunal—

(1) For the purpose of this Act there shall be a Tobacco 10 Quota Appeals Tribunal.

(2) The Tribunal shall consist of 3 members, namely—

- (a) A Barrister of at least 5 years' practice, who shall be appointed as Chairman by the Minister;
- (b) Two further persons appointed by the Minister on the 15 nomination of the New Zealand Tobacco Growers' Federation:

Provided that no person who is a member of the Board shall be eligible for appointment to the 20 Tribunal.

22. Terms of office of Tribunal members—Each member of the Tribunal shall hold office for a term of 3 years but may from time to time be reappointed.

23. Vacancies on the Tribunal—(1) Any member of the Tribunal may at any time be removed from office by the 25 Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice given to the Minister.

(2) If any member of the Board dies, or resigns, or is 30 removed from office, the vacancy shall be deemed to be an extraordinary vacancy.

(3) Every extraordinary vacancy shall be filled by the appointment of some person made in the same manner as the appointment of the vacating member, and the member 35 appointed in his stead shall hold office for the residue of the term of the vacating member.

24. Appointment of deputy members—(1) In any case in which the Governor-General is satisfied that any member of the Tribunal is, by reason of illness, absence, or other sufficient cause, prevented from performing the duties of his office, the
5 Governor-General may appoint a deputy to act for that member during his incapacity, and any such deputy shall, while he acts as such, be deemed to be a member of the Tribunal.

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

25. Sittings of Tribunal—(1) All sittings of the Tribunal shall be convened by the Chairman who shall cause at least
15 7 days' notice in writing to be given to each member of the Tribunal:

Provided that the Tribunal may unanimously decide that shorter notice may be given of any sitting either generally or in a particular case.

20 (2) At all sittings of the Tribunal 2 members, 1 of whom must be the Chairman or his deputy, shall constitute a quorum.

(3) At any sitting of the Tribunal all questions shall be decided by a majority of the members present.

25 (4) In the event of only 2 members of the Tribunal being present at a sitting and their failing to agree on any matter, such matter shall be referred to the next sitting of the Tribunal.

30 (5) Subject to the provisions of this Act and any regulations thereunder, the Tribunal may regulate its procedure in such manner as it thinks fit.

26. Remuneration and travelling allowances to members of Tribunal—(1) The Tribunal is hereby declared to be a Statutory Board for the purposes of the Fees and Travelling Allowances Act 1951.

35 (2) There shall be paid to members of the Tribunal remuneration by way of fees, salary, or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951.

27. Officers of Tribunal—Section 11 of the principal Act is hereby amended by inserting the following subsection:

“(1B) The Minister may from time to time, on the request of the Tribunal, appoint such officers and servants as he deems necessary for the efficient exercise and discharge of the Tribunal’s functions and duties under this Act.” 5

28. Appeals—(1) Any person who is aggrieved by a decision of the Committee upon an application made by him under section 13 of the principal Act (as substituted for in section 15 of this Act) or under sections 17 or 19 of this Act, 10 or by a decision revoking his licence or reducing his licensee’s quota, may appeal against the decision to the Tribunal.

(2) An appeal under this section shall be limited to one or both of the following grounds:

(a) That the decision of the Committee was reached in 15 contravention of the terms of this Act:

(b) That the decision of the Committee would cause severe personal hardship to the appellant.

(3) Every appeal brought under this section shall be made in the prescribed form and in the prescribed manner. 20

(4) The Tribunal shall determine every appeal and may by its decision confirm, vary or reverse the decision of the Committee.

(5) The decision of the Tribunal on every appeal to which this section relates shall be final and conclusive. 25

29. Manufacturers to inform Board of leaf requirements—

(1) On or before the 1st day of June in each year, every manufacturer shall furnish to the Board a written specification of its requirements of quota leaf to be produced in New Zealand for the season commencing on the 15th day 30 of August immediately following. Any manufacturer having no such requirements shall furnish to the Board a written statement to that effect on or before the 1st day of June.

(2) On or before the 1st day of June in each year every manufacturer shall furnish to the Board a written speci- 35 fication of its anticipated requirements of quota leaf to be produced in New Zealand for the 2 seasons following the season in respect of which requirements are to be specified under subsection (1) of this section. Any manufacturer having no such anticipated requirements shall furnish to 40 the Board a written statement to that effect on or before the 1st day of June.

(3) Each manufacturer shall be obliged to purchase the quantity of quota leaf specified by it under subsection (1) of this section in the season immediately following such specification, such purchases to be made exclusively from
5 those licensees whose adjusted quotas are allocated to it under section 32 of this Act:

Provided that should there be a shortfall in relation to any of the licensee's adjusted quotas allocated to a manufacturer that manufacturer shall be required to purchase
10 any over-quota leaf allocated to it by the Board under section 36 of this Act for the purpose of wholly or partially covering that shortfall whether or not the licensee or licensees producing that over-quota leaf are persons whose adjusted quotas have been allocated to that manufacturer.

15 Provided further that should the quantity of quota leaf or over-quota leaf available for purchase by any manufacturer be less than the amount specified by the manufacturer under subsection (1) of this section, the amount available for purchase shall be deemed to be the amount specified
20 under that subsection.

30. Board to determine the national tobacco quota—Before the 1st day of July in each year the Board shall determine the national tobacco quota for the season immediately following, which quota shall represent the total of the quantities of quota leaf specified by manufacturers under sub-
25 section (1) of section 29 of this Act.

31. Licensees to nominate manufacturers—(1) On or before the 1st day of July in each year every licensee shall forward to the Board in writing the name of the manu-
30 facturer to which he desires his adjusted quota for the season immediately following to be allocated.

(2) The statement required by subsection (1) of this section shall also include the names, in descending order of preference, of other manufacturers to which the licensee
35 desires his adjusted quota to be allocated in the event of its non-allocation to the manufacturer referred to in subsection (1) of this section.

32. Allocation of quotas—(1) On or before the 31st day of March in every season the Board shall allocate each adjusted quota to a manufacturer in such a manner as to assure as far as possible that the total of the adjusted quotas allocated to each manufacturer corresponds with that manufacturer's requirements as specified under subsection (1) of section 29 of this Act: 5

Provided that the Board shall not allocate to any manufacturer adjusted quotas the total of which exceeds the requirement specified by that manufacturer under subsection (1) of section 29 of this Act. 10

(2) The Board shall endeavour but be under no duty to allocate adjusted quotas to those manufacturers named by licensees under subsection (1) of section 31 of this Act.

33. Classification of quota leaf—(1) Prior to purchase of any quota leaf by any manufacturer or its representative, the leaf shall be classified in accordance with the Schedule of Standard Grades approved by the Board by persons appointed by the Minister on the advice of the Board. 15

(2) This section shall come into force on a day to be determined by the Minister on the advice of the Board and the Minister shall cause notice thereof to be published in the *Gazette*. 20

34. Price of quota leaf—(1) The minimum price of each grade of tobacco leaf within the Schedule of Standing Grades shall be fixed by the Minister on the advice of the Board and the prices so fixed shall remain operative until altered by the Minister on the advice of the Board. 25

(2) Notwithstanding the provisions of subsection (1) of this section the average price per pound of all quota leaf produced in New Zealand in any season shall not fall below the seasonal average price. 30

(3) Subject to the provisions of subsection (4) of this section, the seasonal average price for each season shall be determined by the Minister on the advice of the Board, and the Minister shall cause notice thereof to be published in the *Gazette* prior to the 15th day of April in each season. 35

(4) The seasonal average price for each season shall not be determined at a figure lower than the average cost of production per pound plus an adequate remuneration for growers' investment, labour, and skill. 40

35. Payment for quota leaf—A manufacturer shall make payment to the licensee or his nominee within 14 days of the purchase of quota leaf by the manufacturer from the licensee.

5 **36. Over-quota and non-quota tobacco leaf**—(1) Should any licensee produce in any season any quota leaf in excess of his licensee's adjusted quota the Board shall—

10 (a) Allocate such over-quota leaf to cover any shortfall, and in making such allocation the Board shall not be obliged to allocate the over-quota leaf to the manufacturer to which the licensee's adjusted quota has been allocated:

15 (b) In the case of over-quota leaf in excess of the national tobacco quota make such leaf available for purchase by manufacturers or other persons in accordance with conditions of sale determined by it.

20 (2) Should any licensee produce in any season any non-quota leaf the Board shall make such leaf available for purchase by manufacturers or other persons in accordance with conditions of sale determined by it.

37. Manufacturers to use 30 per centum domestic tobacco—
Each manufacturer shall be required to include in each and every brand of cigarette and tobacco manufactured by it a quantity of quota leaf produced in New Zealand which
25 constitutes not less than 30 per centum, by weight at the time of usage in manufacture, of the tobacco leaf used in the manufacture of that brand of cigarette or tobacco.

38. Penalties—Section 24 of the principal Act is hereby amended by adding to subsection (2) thereof the following
30 words:

“Provided that any person in breach of the provisions of sections 29 or 37 of the Tobacco Growing Industry Amendment Act 1971 shall be liable on summary conviction to a fine of \$20,000.”

39. Levy on tobacco leaf used in manufacture—Section 19 of the principal Act is hereby repealed and the following section substituted:

“19. (1) There shall be paid to the Board by way of levy on all tobacco leaf, whether produced in New Zealand or otherwise, used in the process of manufacture such charge (if any) as may from time to time be fixed by the Board, not exceeding in any case a levy of 1½ cents a pound. 5

“(2) Any levy prescribed by the Board under this section shall be determined upon the weight of tobacco leaf at the time of its removal from bond store for the purposes of manufacture.” 10

40. Further functions of the Board—(1) Section 18 of the principal Act is hereby repealed.

(2) Notwithstanding those other functions given to it by this Act, the principal functions of the Board shall be to promote and organise the orderly development of the tobacco growing industry in New Zealand with a view to maintaining and improving the standard of quality of tobacco leaf produced by that industry and expanding production of that tobacco leaf, and generally for ensuring, as far as may be practicable, the adoption of measures and practices designed to promote greater efficiency in the industry, in furtherance of the interests and welfare of persons engaged therein. 15 20

(3) The Board shall have all such powers, rights, and privileges as may reasonably be necessary or expedient to enable it to carry out the functions hereinbefore described, and in particular it may from time to time— 25

(a) Devise, promote, and carry out, by such means as commend themselves to the Board, measures for the qualitative improvement in tobacco leaf: 30

(b) Promote, by such means as commend themselves to the Board, the growing of tobacco leaf of sufficient quality, grades, and quantity to increase the percentage of domestically produced leaf used in New Zealand in manufacture: 35

(c) Promote the sale or disposal in New Zealand or elsewhere of tobacco leaf grown or to be grown in New Zealand:

(d) Promote, by way of subsidy or otherwise, the carrying out of any research or experimental work undertaken in New Zealand or elsewhere with a view to improving the quality of tobacco leaf: 40

(e) Promote and organise, by such means as the Board thinks fit, the diffusion of information in relation to the tobacco growing industry for the benefit and guidance of persons engaged in that industry:

5 (f) Undertake or carry out, with the prior approval of the Minister, any other act, matter or thing in relation to the tobacco growing industry which the Minister considers to be desirable or necessary in the interests of persons engaged in that industry.

10 **41. Regulations**—Section 26 of the principal Act is hereby amended by adding to subsection (1) thereof the following paragraphs:

“(h) Prescribing criteria upon which applications for licences are to be determined:

15 “(i) Prescribing the conditions upon which the tobacco leaf produced in New Zealand may be exported or made available for export:

20 “(j) Prescribing the compilation, and issue to and use by growers, of standard forms of farm working accounts and balance sheets.”

42. Consequential amendments—(1) Section 20 of the principal Act is hereby repealed and the following section inserted:

25 **“20. Application of moneys received by Board or Committee**—All moneys received by the Board or Committee, whether by way of levy or otherwise, 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:

30 “(a) In payment of the expenses, commission, and other charges incurred by the Board or the Committee or the Tribunal or for which the Board or Committee or Tribunal may become liable in the exercise of their functions:

35 “(b) In payment of the salaries and wages of officers and servants of the Board or the Committee or the Tribunal:

40 “(c) In payment of travelling allowances, fees, or other remuneration to members of the Board or the Committee or the Tribunal (not being persons permanently employed in the service of the Government):

“(d) In payment into a reserve fund from time to time, as the Board in its discretion determines, of such amounts as the Board may consider necessary to enable it to carry on its operations and the operations of the Committee under this Act: 5

“(e) In payment to the New Zealand Tobacco Growers’ Federation Incorporation for the financing of the operations of the Federation:

“(f) For such other purposes as may be prescribed.”

(2) Subsection (1) of section 24 of the principal Act is 10 hereby repealed and the following subsection inserted:

“(1) Every person commits an offence against this Act who—

“(a) Obstructs or impedes, or attempts to obstruct or impede, the Board or the Committee, or any officer, 15 servant, or agent of the Board or the Committee, in exercising any of the functions, powers, authorities, or duties vested in or conferred on the Board or the Committee by this Act:

“(b) Fails to comply with any condition attached to a 20 licence under this Act, or with any requirement of the Board or Committee under this Act:

“(c) Fails to comply with any provision of this Act or of any regulations made under this Act.”

(3) Subsection (3) of section 24 of the principal Act is 25 hereby amended by deleting the words “or warrant” whenever they appear in that section.

(4) Subsection (1) of section 26 of the principal Act is hereby amended by deleting from paragraphs (a) and (b) 30 thereof the words “and warrants” whenever they appear in those paragraphs.

(5) Section 23 of the principal Act is hereby amended by inserting the words “or the Committee” after the words “of the Board” whenever these words appear in the section.