

TOBACCO INDUSTRY BILL

EXPLANATORY NOTE

THIS Bill consolidates and amends the Tobacco Growing Industry Act 1935 and its amendments, and implements, with some modifications, the recommendations of the Committee of Inquiry into the New Zealand Tobacco Growing Industry.

The Bill contains many amendments of varying degrees of importance, the major ones being—

- (a) The reconstitution of the present Tobacco Board (*clause 4*) and a change in the term of office of its members (*clause 5*).
- (b) The extension of the functions of the Board (*clause 10*).
- (c) The establishment of a Tobacco Quota Committee (*clause 12*). The basic functions of the Committee are the determination of applications for the granting of licences to grow tobacco, the approval of applications to transfer such licences, the determination of the basic quota to apply in respect of each licence, and the determination of applications to increase or reduce the amount of the basic quota. It has also powers to revoke licences and reduce the amount of the basic quota.
- (d) The establishment of a Tobacco Quota Appeals Tribunal (*clause 16*) to determine appeals from the decisions of the Tobacco Quota Committee.
- (e) The alteration of the character of a licence. At present licences to grow tobacco are granted annually. Under the Bill licences will continue in force until surrendered by the licensee or revoked by the Tobacco Quota Committee, and may be transferred.
- (f) The introduction of a basic quota to be specified in respect of each licence. The basic quota (the quantity of tobacco leaf falling within the grades of the Schedule of Standard Grades for which a minimum price is established) is to provide the basis upon which the adjusted quota is to be determined. The Tobacco Quota Committee will determine an adjusted quota in respect of each licence for each season and this will represent the quantity of quota leaf for which the licensee is guaranteed a purchaser. Any leaf produced in excess of this quota has no assured market.
- (g) Warrants to sell and growing contracts with manufacturers are no longer necessary. Under the present Act growers require a warrant before they can sell tobacco leaf and in order to obtain a warrant they must have growing contracts with a manufacturer. Under the

Bill the growers adjusted quota must be purchased by a manufacturer. The adjusted quota for each grower is based on the Domestic Tobacco Quota i.e., the total amount that manufacturers must purchase in any season.

- (h) The classification of tobacco leaf by persons appointed by the Minister (*clause 44*). At present no provision is made in the Act for Tobacco to be graded.
- (i) The price of tobacco leaf is to be determined by the Department of Trade and Industry. At present the price is determined by the Price Tribunal (*clause 42*).
- (j) A levy is to be made on manufacturers on all tobacco used by them in manufacture as well as the present levy on the grower on tobacco grown in New Zealand (*clause 21*).

Clause 1 relates to the Short Title and commencement. With the exception of *clause 41* (Manufacturers to inform Board of leaf requirements), and *clause 49* (Classification of tobacco leaf) the Bill is to come into force on 1 August 1974 and in so far as it relates to the growing of tobacco shall apply with respect to the season commencing on 1 September 1974.

Clause 2 is the interpretation clause.

PART I

THE TOBACCO BOARD, THE TOBACCO QUOTA COMMITTEE, AND THE TOBACCO QUOTA APPEALS TRIBUNAL

The Tobacco Board

Clause 3 re-establishes the Tobacco Board and declares it to be a body corporate.

Clause 4 reconstitutes the membership of the Board. At present the Board consists of a Chairman appointed on the advice of the Minister, a member of the Department of Trade and Industry appointed by the Minister, 4 growers' representatives elected by the growers and 4 manufacturers' representatives. Under the Bill the Board will consist of—

- (a) A Chairman to be appointed by the Minister after consultation with the growers' and manufacturers' representatives on the Board;
- (b) An officer of the Department of Trade and Industry;
- (c) An officer of the Ministry of Agriculture and Fisheries recommended by the Director-General of that Ministry;
- (d) Three persons elected by the growers;
- (e) Three persons representing the manufacturers.

Clause 5 provides that the term of office of each member (other than the 2 departmental officers) shall be 3 years. By reason of the transitional provisions (*clause 50*) 1 growers' representative and 1 manufacturers' representative will retire each year but may be re-elected or reappointed. At present the term of office is 2 years.

Clause 6 provides for regulations to be made for the election of a growers' representative each year, for a term commencing on the 1st day of September in that year.

Clause 7 provides the procedure for filling an extraordinary vacancy, the person appointed or elected holding office until the expiry of the term of office of the member he replaces.

Clause 8 provides for the appointment of a deputy member where the actual member is incapacitated. The only change from the present Act is that the deputy will be appointed by the Minister and not by the Governor-General, and that any officer of a department of State who is a member of the Board by virtue of his office may authorise another officer of the department to act in his place.

Clause 9 provides the procedure for meetings of the Board and is basically the same as in the present Act.

Clause 10 is new and sets out in detail the functions of the Board and gives it certain powers as set out in the clause.

Clause 11 authorises the Board to obtain information in respect of the tobacco growing industry. This authority is in the present Act, but has been extended to cover samples of raw tobacco leaf.

Tobacco Quota Committee

Clause 12 establishes a Committee of the Board to be known as the Tobacco Quota Committee. *Subclause (2)* provides that the Chairman of the Board and the growers' representatives on the Board shall be the members of the Committee.

Clause 13 provides that the members of the Committee shall remain members thereof for such time as they are members of the Board.

Clause 14 requires the Board to appoint a member of the Committee to be the Deputy Chairman of the Committee.

Clause 15 prescribes the convening of and procedure at meetings of the Committee.

Tobacco Quota Appeals Tribunal

Clause 16 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 17: This clause provides that each member of the Tribunal shall hold office for 3 years but may be reappointed.

Clause 18 provides for the filling of extraordinary vacancies on the Tribunal.

Clause 19 authorises the appointment of deputy members of the Tribunal.

Clause 20 provides for the convening of and procedure at sittings of the Tribunal.

General Provisions

Clause 21: Subclause (1) re-enacts the present provisions authorising the Board to levy the growers a charge, not exceeding 3.5 cents a kilogramm, on all tobacco leaf sold for manufacture in New Zealand.

Subclause (2) is new and empowers the Board to levy on the manufacturers a charge equal to the levy paid by the growers in regard to leaf sold for manufacture in New Zealand.

Subclause (3) apportions the levy on the manufacturers so that each manufacturer's part is proportionate to the tobacco leaf used by the manufacturer.

Subclause (4) empowers the Board to collect a levy from growers who are members of the New Zealand Tobacco Growers Federation Incorporated, being a levy duly authorised by the rules of the Federation. The money received is not to form part of the Board's funds but is to be paid to the Federation.

Clause 22 sets out how the Board is to apply its funds. The principal change is that the Board may incur expenditure not otherwise authorised of an amount not exceeding \$500 in any year.

Clause 23 sets out the Board's banking procedure.

Clause 24 provides how contracts of the Board are to be made.

Clause 25 empowers the Board, with the consent of the Minister of Finance, to borrow money.

Clause 26 declares the Board and the Tribunal to be statutory boards for the purposes of the Fees and Travelling Allowances Act 1951, and authorises the payment of remuneration and travelling expenses to members of the Board and the Tribunal in accordance with that Act.

Clause 27 provides for audit of the Board's accounts.

Clause 28 is new and provides that the Board is to submit an annual report and a copy of its audited accounts to the Minister to be laid before Parliament.

Clause 29 extends the present provisions regarding the employment of staff to include staff required by the Tribunal including a Clerk of the Tribunal.

Clause 30 exempts members of the Board and of the Tribunal from personal liability for acts done in good faith in the course of their duties.

PART II

LICENCES AND QUOTAS

This Part is mostly new and sets out the procedure for the licensing of tobacco growers, the setting of quotas, and the sale of tobacco.

Clause 31 re-enacts the present provision that tobacco for sale is not to be grown without a licence, but increases the amount of the fines in the case of offences against the clause. The section is not to apply to tobacco grown for research purposes under the direction and control of the Department of Scientific and Industrial Research.

Clause 32 provides for the new form of licence to grow tobacco.

Subclause (1) empowers the Committee, subject to regulations made under this Act, to grant licences to grow tobacco.

Subclause (2) gives priority for a licence under the Bill to applicants who are holders of a current licence under the present Act.

Subclause (3) provides that every licence shall specify the name of the licensee, the land on which the tobacco is to be grown, and the basic quota of tobacco leaf applicable to that land.

Subclause (4) provides that every licence shall apply only in respect of tobacco grown by the licensee on the land specified in the licence and that no tobacco grown on any other land is to form part of his basic quota or adjusted quota.

Subclause (5) provides that it shall be a condition of every licence that the licensee use only those insecticides, sprays, or other materials approved by the Board on the recommendation of the Tobacco Research Committee.

Subclause (6) provides that every licence shall continue in force until it is surrendered by the licensee or revoked under the Bill, provided that in special circumstances a licence for a limited period may be granted.

Clause 33: Subclause (1) provides that licences granted by the Committee shall be transferable with the written consent of the Committee.

Subclause (2) provides that the Committee's consent to the transfer shall not be unreasonably withheld.

Subclauses (3) and (4) provides that licences may be transferred in whole or in part to other land for, at the most, 2 seasons.

Clause 34 gives a licensee the right to apply for an increase in his basic quota.

Clause 35 gives the Committee power to revoke a licence or reduce the amount of a licensee's basic quota, should a licensee fail for 2 successive years to plant a sufficient area of tobacco to produce his basic quota or adjusted quota, whichever is the less, or fail for 2 successive years to produce his adjusted quota, or secure a licence by a false document or representation or be convicted of any offence against the Bill, or commit a breach of any condition of the licence.

Clause 36 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 provisions of the Bill, that the decision of the Committee would cause severe personal hardship to the appellant, that in relation to the revocation of a licence or a reduction in a basic quota, the Committee has not acted in an equitable manner or that the decision was unreasonable.

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

Clause 37 provides that the Tribunal may at any time, before delivering its decision, either on the application of the appellant or of its own motion, state a case for the Administrative Division of the Supreme Court on any question of law.

Clause 38 gives a right of appeal, on a question of law only, to the Administrative Division of the Supreme Court from a decision of the Tribunal, and sets out the procedural steps to be taken.

Clause 39 gives a right of appeal from a decision of the Administrative Division of the Supreme Court under *clause 38* to the Court of Appeal.

Clause 40 provides that no manufacturer shall manufacture, or cause or permit to be manufactured, any tobacco in any period of 12 months commencing on 1 August in any year, unless the whole of the raw tobacco delivered for use by that manufacturer in that period contains in the aggregate not less than 30 percent (or such other percentage as the Governor-General, by Order in Council declares) by weight of tobacco grown in New Zealand.

Clause 41: Subclause (1) requires every manufacturer, on or before 1 July in every year, to furnish the Board with a return in writing specifying—

- (a) Its requirements of quota leaf to be produced in New Zealand for the season commencing on the next succeeding 1 September;
- (b) Its minimum requirements of such leaf for the next 2 seasons;
- (c) Its estimated requirements of such leaf for the next 2 seasons.

Subclause (2) provides that every manufacturer shall be obliged to purchase the quantity of quota leaf specified in *paragraph (a)* above in the season to which it relates.

Subclause (3) provides that the minimum requirements specified in *paragraph (b)* above in respect of any season shall not be reduced in any subsequent return relating to that season unless the Board is satisfied that, by reason of a substantial decrease in the sales of manufactured tobacco by any manufacturer it would be inequitable for the manufacturer to be obliged to purchase the minimum amount so specified. In that case the Board may permit the amount to be reduced in any subsequent return to such amount it considers equitable.

Subclause (4) provides that where the amount of quota leaf or over-quota leaf available for purchase by any manufacturer is less than the amount specified, the amount so specified shall be deemed to be reduced to that lesser amount for the purpose of this clause.

Subclause (5) provides that any manufacturer who fails without reasonable cause to comply with the foregoing provisions of this clause commits an offence and shall be liable on conviction on indictment to a fine not exceeding \$20,000.

Clause 42 requires the Board to determine the Domestic Tobacco Quota for each season. This Quota represents the total of the quantities specified by manufacturers under *paragraph (a) of subclause (1) of clause 41* of the Bill.

Clause 43 requires the Committee to determine, in relation to each licensee, an adjusted quota for each season.

Clause 44: Subclause (1) provides that quota leaf shall be offered for sale and delivered on such terms and conditions, and in accordance with such procedures, as may be prescribed by regulations.

Subclause (2) provides that before any such regulations are made the Minister shall consult the Board, the New Zealand Tobacco Growers' Federation Incorporated, and the manufacturers.

Subclause (3) provides that in the absence of any such regulations, and so far as such regulations do not extend, the following provisions shall apply:

- (a) Each manufacturer shall be obliged to purchase the quantity of quota leaf specified by it exclusively from those licensees whose adjusted quotas are allocated to it under *paragraph (d)*:

- (b) On or before 1 August in each year every licensee shall forward to the Board the name of the manufacturer to whom he desires his adjusted quota to be allocated for the next season:
- (c) Every licensee shall also state the names, in descending order of preference, of other manufacturers to which the licensee desires his adjusted quota to be allocated for the next season in the event of its non-allocation to the manufacturer specified under *paragraph (b)*:
- (d) On or before 31 March in every season the Board shall allocate each adjusted quota to a manufacturer:
- (e) The Board shall endeavour, but be under no duty, to allocate adjusted quotas to the manufacturers specified by the licensees:
- (f) Nothing in this clause shall compel any manufacturer to purchase quota leaf in excess of his specified requirements for that season.

Clause 45 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.

Subclause (2) provides that this clause shall come into effect on a day to be appointed by the Governor-General in Council.

Clause 46: Subclause (1) provides that prior to the commencement of each season the Board shall determine those grades of the Schedule of Standard Grades which shall be quota grades for that season.

Subclause (2) requires the Department of Trade and Industry, after consultation with the Board, to fix a minimum price per kilogram for leaf falling within those grades. These prices are to remain operative until altered by the Department.

Clause 47 provides for payment to be made by the manufacturers within 14 days of purchase.

Clause 48 regulates the situation where any licensee produces quota leaf in excess of his adjusted quota. *Subclause (1)* provides that if a shortfall exists, the Board may declare that leaf or part of it to be part of the licensee's adjusted quota. If no shortfall exists then the leaf may not be declared part of the adjusted quota, but *subclause (3)* directs the leaf to be disposed of on terms and conditions determined by the Board.

Clause 49 directs that non-quota leaf (leaf of grades other than quota grades for that season) shall be disposed of on terms and conditions determined by the Board.

PART III

MISCELLANEOUS PROVISIONS

Clause 50 sets out the offences and penalties in connection with the Bill. Basically it re-enacts the present provisions with the following amendments—

- (a) The penalty for an offence has been changed from a fine of \$200 to a fine not exceeding \$500.
- (b) The penalty for a continuing offence has been changed from a fine of \$20 a day to a fine not exceeding \$50 a day.

Clause 51 re-enacts the present provision regarding the application of sections 7 and 8 of the Agriculture (Emergency Powers) Act 1934.

Clause 52 sets out the matters in respect of which the Governor-General may make regulations. The new matters are—

- (a) The criteria upon which applications for the granting of licences and transfer of licences are to be determined.
- (b) The criteria upon which the basic quota applicable to any land is to be determined.
- (c) The conditions upon which the tobacco leaf produced in New Zealand may be exported or made available for export.
- (d) Prescribing offences against the regulations and penalties for such offences not exceeding \$200, and, in the case of a continuing offence, to a further fine of \$20 for every day on which the offence is continued.

Clause 53 repeals the enactments consolidated by this Bill.

Clause 54 provides that the first 3 growers' and manufacturers' representatives are to be appointed by the Minister on or before the commencement of this Act and, so far as possible, are to be appointed from the present representatives on the Board. One growers' and one manufacturers' representative will be appointed for a term ending on the expiration of the 31st day of August 1975, one of each for a term ending on the expiration of the 31st day of August 1976, and one of each for a term ending on the 31st day of August 1977.

The *Schedule* contains the repeals.

Hon. Mr Freer

TOBACCO INDUSTRY

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A BILL INTITULED

An Act to consolidate and amend the law relating to the regulation of the tobacco industry, and for other matters incidental thereto

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

1. Short Title, commencement, and application—(1) This Act may be cited as the Tobacco Industry Act 1974.

(2) Except as otherwise provided herein, this Act shall 10
come into force on the 1st day of August 1974, and, in so far as it relates to the growing of tobacco, shall apply with respect to the season commencing on the 1st day of September 1974 and to every succeeding season.

2. Interpretation—In this Act, unless the context otherwise 15
requires,—

“Adjusted quota”, in relation to any licensee, means the adjusted quota determined by the Committee under this Act as applicable to the land specified in his licence: 20

“Basic quota”, in relation to any licensee, means the basic quota determined by the Committee under this Act as applicable to the land specified in his licence:

“Board” means the Tobacco Board established under this Act: 25

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

“Domestic Tobacco Quota” means the green-weight quantity of quota leaf determined by the Board pursuant to section 42 of this Act: 30

“Grower” means a person who by himself or his agent grows tobacco:

“Growers’ representatives” means the members of the Board elected to the Board pursuant to paragraph (d) of subsection (1) of section 4 of this Act: 35

“Licence” means a licence granted under section 32 of this Act:

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

- 5 “Manufacture” includes the processes of cutting, pressing, grinding, crushing, or rubbing any raw or leaf tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco for smoking or any other purpose; and “to manufacture” has a corresponding meaning:
- 10 “Manufacturer” includes any person who by himself or his agent carries on any business or process of manufacturing, or in any way preparing for sale, tobacco in any shape for smoking or for any other purpose:
- 15 “Manufacturers’ representatives” means the members of the Board appointed to the Board pursuant to paragraph (e) of subsection (1) of section 4 of this Act:
- “Minister” means the Minister of Trade and Industry:
- 20 “Non-quota leaf” means tobacco leaf falling into those grades of the Schedule of Standard Grades for which no minimum price is established:
- “Over-quota leaf” means quota leaf produced by any licensee in any season in excess of his adjusted quota for that season:
- 25 “Purchase” includes every mode of acquisition, whether for valuable consideration or not, including acquisition by an agent for sale on consignment, but not including acquisition by way of security only; and “to purchase” has a corresponding meaning:
- 30 “Quota” means the quantity of tobacco leaf, expressed in terms of green-weight, falling within those grades of the Schedule of Standard Grades for which a minimum price has been established:
- “Quota leaf” means tobacco leaf falling within those grades of the Schedule of Standard Grades for which a minimum price has been established:
- 35 “Raw tobacco” means unmanufactured tobacco, or the leaves and stems of the tobacco plant before they have passed through any process of manufacture:
- 40 “Sale” includes every mode of disposition, whether for valuable consideration or not, including disposition to an agent for sale on consignment, but not including disposition by way of security only; and “to sell” has a corresponding meaning:

- “Schedule of Standard Grades” means a schedule of grades of tobacco leaf to be approved by the Board after the coming into force of this Act, which schedule shall include both flue-cured and air-dried grades: 5
- “Season” means a period of 12 months commencing on the 1st day of September in any year and ending on the expiration of the 31st day of August in the following year:
- “Shortfall” means the amount in any season by which 10 the quantity of quota leaf offered for sale is less than the Domestic Tobacco Quota for that season:
- “Tribunal” means the Tobacco Quota Appeals Tribunal established under this Act.

PART I

15

THE TOBACCO BOARD, THE TOBACCO QUOTA COMMITTEE,
AND THE TOBACCO QUOTA APPEALS TRIBUNAL

Tobacco Board

- 3. Tobacco Board**—(1) There shall continue to be a Tobacco Board which shall be a body corporate having 20 perpetual succession and a common seal and with power to acquire, hold, and dispose of real and personal property, to sue and to be sued, and to do and suffer all such other acts and things as bodies corporate may lawfully do or suffer.
- (2) The Board is hereby declared to be the same body 25 corporate as the Tobacco Board established under the Tobacco Growing Industry Act 1935.

Cf. 1935, No. 38, s. 3 (1), 6; 1965, No. 12, s. 2

- 4. Membership of Board**—(1) The Board shall consist of 9 members of whom— 30
- (a) The Chairman shall be appointed by the Minister by notice in the *Gazette*, after consultation with the growers’ representatives and the manufacturers’ representatives on the Board:
- (b) One shall be an officer of the Department of Trade 35 and Industry appointed by the Minister:
- (c) One shall be an officer of the Ministry of Agriculture and Fisheries appointed by the Minister on the recommendation of the Director-General of the Ministry of Agriculture and Fisheries: 40

5 (d) Three shall be appointed by the Minister as the growers' representatives by notice in the *Gazette* on the nomination of the New Zealand Tobacco Growers' Federation Incorporated, being the persons nominated in accordance with section 6 of this Act:

(e) Three shall be appointed by the Minister as the manufacturers' representatives by notice in the *Gazette*, on the nomination of the manufacturers.

10 (2) The Chairman and members of the Board in office at the commencement of this Act shall continue in office until their successors are appointed in accordance with this Act and shall then retire from office.

Cf. 1935, No. 38, s. 3 (2); 1965, No. 12, s. 2 (1)

15 **5. Term of office**—(1) The Chairman of the Board and all other members thereof, other than the officers of the Department of Trade and Industry and of the Ministry of Agriculture and Fisheries, shall hold office for a term of 3 years but may from time to time be reappointed or re-elected.

20 (2) The officers of the Department of Trade and Industry and of the Ministry of Agriculture and Fisheries shall hold office during the pleasure of the Minister.

25 (3) Unless he sooner vacates his office as provided in subsection (4) of this section, every member of the Board shall continue in office until his successor is appointed or elected, notwithstanding that the term for which the member was appointed or elected may have expired.

30 (4) Any member of the Board may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may at any time resign his office by written notice given to the Minister.

Cf. 1935, No. 38, ss. 4, 5 (1); 1951, No. 36, s. 5; 1965, No. 12, ss. 3, 4 (1)

35 **6. Election of growers' representatives**—(1) In the manner prescribed by regulations made under this Act, an election shall be held in each year for a member of the Board to be nominated as a growers' representative.

40 (2) The person elected under subsection (1) of this section shall commence his term of office on the 1st day of September in the year in which the election is held.

Cf. 1951, No. 36, s. 3

7. Extraordinary vacancies—(1) If any member of the Board dies, or resigns, or is removed from office, the vacancy shall be deemed to be an extraordinary vacancy.

(2) Except as provided in subsection (3) of this section, 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 appointed in his place shall hold office for the residue of the term of the vacating member. 5

(3) In the event of an extraordinary vacancy in the office of a growers' representative, the vacancy shall be filled by the person nominated by the New Zealand Tobacco Growers' Federation Incorporated, being the person elected in the manner prescribed by regulations made under this Act: 10

Provided that where any such vacancy occurs within 6 months before the expiry of the term of office of the vacating member, the Board may by resolution determine that— 15

(a) The vacancy shall be filled by appointment by the Board of a person qualified to be elected as a member; or 20

(b) The vacancy shall not be filled until the next election of members is held.

(4) Every person appointed by the Board pursuant to paragraph (a) of subsection (3) of this section shall for all purposes be deemed to have been appointed by the Minister to fill the vacancy. 25

(5) The powers of the Board shall not be affected by any vacancy in its membership.

Cf. 1935, No. 38, s. 5; 1965, No. 12, s. 4 (1)

8. Appointment of deputy members—(1) Subject to subsection (2) of this section in any case where the Minister is satisfied that any member of the Board is, by reason of illness, absence, or other sufficient cause, incapacitated from performing the duties of his office, the Minister 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 Board. 30 35

(2) Any person who is a member of the Board by virtue of being an officer of a department of State may authorise another officer of the department to perform the duties of his office as a member of the Board when the member is, by reason of illness, absence, or other sufficient cause, incapacitated from performing those duties. 40

(3) The fact that a person attends and acts as a member of the Board at any meeting of the Board shall be conclusive proof of his authority to do so.

(4) No appointment or authorisation of a deputy as such shall in any proceedings be questioned on the grounds that the occasion for his appointment or authorisation had not arisen or had ceased.

Cf. 1935, No. 38, s. 8

9. Meetings of the Board—(1) Meetings of the Board shall be held whenever the Board or the Chairman so decides and at such times and places as the Board or the Chairman decides.

(2) A special meeting of the Board shall be convened by the Chairman at the request in writing of any 3 members of the Board.

(3) At any meeting of the Board, 5 members of the Board, of whom 1 shall be the Chairman or his deputy appointed pursuant to section 8 of this Act, 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 his deputy shall preside at that meeting.

(6) At any meeting of the Board the person presiding at the meeting shall have a deliberative vote and, in the case of an equality of votes, he shall also have a casting vote.

(7) All questions before the Board shall be decided by a majority of the valid votes recorded thereon.

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

Cf. 1935, No. 38, s. 10; 1965, No. 12, s. 5

10. Functions of the Board—(1) The functions of the Board shall be—

(a) To promote and organise the orderly development of the tobacco industry in New Zealand; and

(b) To encourage the use in manufacture of New Zealand grown tobacco; and

(c) To improve the standard of quality of tobacco leaf produced in New Zealand; and

(d) To ensure, as far as may be practicable, the adoption of measures and practices designed to promote greater efficiency in the industry.

(2) The Board shall have such powers, rights, and privileges, not inconsistent with this Act, as are reasonably necessary for the effective performance of its functions and, without limiting the generality of the foregoing, the Board may—

- (a) Devise, promote, and carry out measures for the qualitative improvement in tobacco leaf: 5
- (b) Promote the growing of tobacco leaf of sufficient quality, grades, and quantity to be used in manufacture in New Zealand:
- (c) Promote the sale in New Zealand or elsewhere of tobacco leaf grown or to be grown in New Zealand: 10
- (d) Promote, by way of subsidy or otherwise, the carrying out of any research or experimental work in New Zealand or elsewhere, which in the opinion of the Board may assist in carrying out its functions: 15
- (e) Promote and organise the collection and dissemination of information in relation to the tobacco growing industry for the benefit and guidance of persons engaged in that industry:
- (f) Undertake 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. 20

Cf. 1935, No. 38, s. 18

11. Information to be given to Board by manufacturers, growers, and certain other persons— 25
 (1) The Board may from time to time require any manufacturer to supply information in respect of all or any of the following matters, namely:

- (a) The quantity of raw tobacco grown in New Zealand that has been used by the manufacturer for the purposes of his business in any period: 30
- (b) The quantity of raw tobacco grown in New Zealand or elsewhere that is or has been owned by or held by or on behalf of the manufacturer for the purposes of his business at any time: 35
- (c) The quantity of raw tobacco grown or to be grown in New Zealand that the manufacturer estimates he will use for the purposes of his business in any period, and the sources from which he proposes to obtain that tobacco. 40

(2) In providing the Board with information requested under subsection (1) of this section, a manufacturer shall specify quantities of leaf falling within each grade of the Schedule of Standard Grades.

5 (3) The Board may from time to time require any manufacturer to submit to the Board, or to a person or body nominated by it, such samples of raw tobacco as are nominated by it.

(4) The Board may from time to time require any grower
10 to supply information in respect of all or any of the following matters, namely:

(a) The quantity of tobacco that has been grown or is to be grown by the grower in any period:

15 (b) The quantity of raw tobacco grown or to be grown by the grower that has been sold in any period:

(c) The quantity of raw tobacco grown by the grower that is held by him and unsold at any time:

(d) The price at which any raw tobacco grown or to be grown by the grower has been sold:

20 (e) The area of land on which tobacco has been grown or is to be grown by the grower in any period or is being grown by him at any time.

(5) The Board may from time to time, with the approval of the Minister, require any person (whether a grower or
25 manufacturer or not) to supply such further information as may be deemed necessary for the effective administration of this Act, but not including any information relating to formulas, methods, or processes used in manufacturing tobacco, or to the cost of manufacturing tobacco, or to any
30 other matter incidental to the process of manufacturing tobacco.

(6) All information required under this section shall be supplied to the Chairman of the Board. With respect to all information supplied under subsections (1) and (4) of this
35 section, and to such of the information supplied under subsection (5) of this section as the Minister directs, the Chairman shall not disclose details of the information supplied by any individual person, but he may lay before the Board returns showing the aggregate results of the
40 information supplied, classified in such manner as the Chairman thinks fit.

(7) It is an offence for any manufacturer, grower, or person to whom subsection (5) of this section applies to supply misleading or erroneous information or raw tobacco

samples or to fail to supply information or samples lawfully requested pursuant to this section, in either case with the intention of misleading, obstructing, or impeding the Board.

Cf. 1935, No. 38, s. 17

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Tobacco Quota Committee

12. 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: 10

(a) The Chairman of the Board, who shall be Chairman of the Committee; and

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

13. Term of office of Committee members—The Chairman 15 and members of the Committee shall continue as members thereof during such time as they hold office as members of the Board.

14. Appointment of Deputy Chairman of Committee—The Board shall from time to time appoint a member of the 20 Committee to be the Deputy Chairman of the Committee who shall, in the absence of the Chairman, be deemed to be the Chairman of the Committee.

15. Meetings of the Committee—(1) All meetings of the 25 Committee shall be held whenever the Committee or the Chairman of the Committee so decides, and at such times and places as the Committee or the Chairman of the Committee decides.

(2) A special meeting of the Committee shall be convened by the Chairman of the Committee at the request in writing 30 of any 2 members of the Committee.

(3) At any meeting of the Committee a quorum shall consist of 3 members of the Committee.

(4) The Chairman of the Committee shall preside at all meetings of the Committee at which he is present. 35

(5) At any meeting of the Committee the person presiding shall have a deliberative vote and, in the case of an equality of votes, he 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 40 thereon.

(7) The Chairman of the Committee may at any time refer any matter requiring the consideration of the Committee to all members of the Committee in writing, and any decision made 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—

- (a) The grant, transfer, or revocation of any licence; or
- (b) The determination of, or increase or reduction in, any basic quota—

in which he holds, directly or indirectly, any pecuniary interest, and any member who holds any such interest shall declare that interest to the Committee and shall vacate any meeting of the Committee during any discussion concerning such licence or basic quota.

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

20 *Tobacco Quota Appeals Tribunal*

16. **Tobacco Quota Appeals Tribunal**—(1) For the purposes of this Act there shall be established a Tobacco Quota Appeals Tribunal.

(2) The Tribunal shall consist of 3 members, namely:
25 (a) A barrister of at least 5 years' practice, who shall be appointed by the Minister as Chairman of the Tribunal:

(b) Two persons appointed by the Minister on the nomination of the New Zealand Tobacco Growers' Federation Incorporated.

30 (3) No person who is a member of the Board shall be eligible for appointment as a member of the Tribunal.

17. **Term of office of Tribunal members**—Each member of the Tribunal shall hold office for a term of 3 years and may from time to time be reappointed.

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

(2) If any member of the Tribunal is 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 appointed in his place shall hold office for the residue of the term of the vacating member. 5

19. Appointment of deputy members—(1) Where the Minister 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 Minister may appoint a deputy, being a person with similar qualifications as that member, 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 15

(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.

20. Sittings of Tribunal—(1) All sittings of the Tribunal shall be convened by the Chairman. 20

(2) At all sittings of the Tribunal 2 members, of whom one 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 failing to agree on any matter, that matter shall be referred to the next sitting of the Tribunal.

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

General Provisions

21. Levy on tobacco leaf used in manufacture—(1) There shall be paid to the Board, by or on behalf of the growers, by way of levy on all tobacco leaf produced in New Zealand and sold for manufacture such charge, if any, as may from time to time be fixed by the Board, not exceeding in any case a levy of 3.5 cents per kilogram. 35

(2) There shall be paid to the Board by the manufacturers in New Zealand in respect of any period a sum equal to the total levy payable by the growers to the Board under subsection (1) of this section in respect of tobacco leaf sold for
5 manufacture in New Zealand during that period.

(3) The amount payable by each manufacturer in respect of any period under subsection (2) of this section shall be an amount bearing the same proportion to the amount payable by all the manufacturers in respect of that period as
10 the amount of unmanufactured tobacco used in New Zealand by that manufacturer in that period bears to the total amount of unmanufactured tobacco used in New Zealand by all the manufacturers in that period.

(4) The Board may, on behalf of the New Zealand
15 Tobacco Growers' Federation Incorporated, collect such additional levy from the members of the Federation on tobacco leaf grown in New Zealand and sold for manufacture as is duly authorised by the rules of the Federation. All money received from this levy shall be paid to the Federation
20 by the Board and shall not form part of the funds of the Board.

Cf. 1935, No. 38, s. 19; 1967, No. 120, s. 2 (1)

22. Application of money received by Board—(1) All money received by or on behalf of the Board, whether by
25 way of levy or otherwise, shall be applied by the Board as follows:

- (a) In payment of the expenses, commission, and other charges incurred by the Board or the Tribunal or for which the Board or the Tribunal may become
30 liable in the exercise of their functions:
- (b) In payment of the salaries and wages of officers and servants of the Board or the Tribunal:
- (c) In payment of travelling allowances, fees, or other remuneration to members of the Board or the
35 Tribunal:
- (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 out its operations under this Act:
- 40 (e) For such other purposes as may be prescribed.

(2) The Board may in every year expend for purposes not authorised by any Act or law for the time being in force any sum or sums not amounting in the aggregate to more than \$500.

Cf. 1935, No. 38, s. 20

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23. Money to be banked—(1) All money received by the Board, or by any officer or employee of the Board, or by any person authorised to receive money on behalf of the Board shall, as soon as practicable after its receipt by any of them, be paid into a separate account at a bank to be approved by the Minister of Finance. 10

(2) No money shall be withdrawn from the bank account of the Board except by cheque or other instrument (not being a promissory note or bill) signed by a person authorised by the Board in that behalf and countersigned by another person so authorised. 15

(3) Every payment of money by the Board shall be authorised by a prior resolution of the Board or shall be submitted to the Board for authorisation at its next ordinary meeting. 20

(4) The Board may from time to time authorise the opening and operation of an imprest account which may be held jointly in the names of and be operated on by 2 persons approved by the Board in that behalf, or may, with the express approval in writing of the Audit Office but not otherwise, be in the sole name of and operated on by one such person so approved. 25

(5) The Board shall from time to time by resolution fix the maximum amount that may be held at any time in the imprest account, not exceeding \$200 in any case where the account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case. 30

(6) Money in the imprest account shall be available only for the payment of salaries and wages and emergency expenditure. A statement of all payments made from the imprest account shall be submitted to the Board for its approval at its next ordinary meeting. 35

24. Contracts of Board—(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. 40

(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 2 members of the Board on behalf of and by the direction of the Board.

5 (3) Any contract which, if made between private persons, may be made orally without writing may be similarly made by or on behalf of the Board by any 2 members acting by the direction of the Board, but no oral contract shall be made involving the payment by the Board of a sum exceeding \$200.

10 (4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided in those provisions, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board, either in relation to contracts
15 generally or in relation to that particular contract.

Cf. 1935, No. 38, s. 21

25. Borrowing powers—With the prior consent in writing of the Minister of Finance, the Board may—

- 20 (a) Borrow money from any person; and
(b) Mortgage, charge, or pledge any right, title, estate, or interest in any of its property, for the purpose of securing the repayment of that money.

Cf. 1935, No. 38, s. 21

26. Fees and travelling allowances—(1) The Board and
25 the Tribunal are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

30 (2) There shall be paid to members of the Board and 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, and the provisions of that Act shall apply accordingly.

Cf. 1935, No. 38, s. 4A; 1951, No. 79, s. 10 (1)

27. Audit of Board's Accounts—(1) The Board shall keep
35 full and correct accounts of all money received and expended by it, and the accounts shall be audited by the Audit Office, which for this purpose shall have and may exercise all the powers that it has under the Public Revenues Act 1953 in respect of public money and the audit of the accounts of
40 local authorities.

(2) The Board shall, as soon as practicable after the end of each financial year ending with the 30th day of September, cause to be prepared a balance sheet and an income and expenditure account for that year and a statement of source and application of funds.

5

Cf. 1935, No. 38, s. 22

28. Annual report—(1) The Board shall furnish to the Minister a report of its proceedings and operations for each financial year, together with a copy of its audited accounts for that year, as soon as practicable after these accounts have been audited by the Audit Office.

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(2) A copy of the report and the audited accounts shall be laid before Parliament as soon as practicable after their receipt by the Minister.

29. Staff of Board and Tribunal—(1) The Board may from time to time appoint such officers and employees, including acting or temporary or casual officers and employees, as it considers necessary for the efficient exercise of its powers and functions, and may at any time remove any officer or employee from his office or employment.

15
20

(2) The Board may from time to time, on the request of the Tribunal, appoint a Clerk of the Tribunal and such officers and employees, including acting or temporary or casual officers and employees, as the Board considers necessary for the efficient exercise of the powers and functions of the Tribunal, and may at any time, whether or not at the request of the Tribunal, remove any officer or employee from his office or employment.

25

(3) Any person in the service of the Crown may be appointed as an officer or employee under subsection (1) or subsection (2) of this section:

30

Provided that no such person shall accept such appointment and be entitled to retain his position as a servant of the Crown except—

(a) In the case of a person subject to Part III of the State Services Act 1962, with the consent of the State Services Commission; and

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(b) In any other case, with the consent of the Minister to whose control he is subject.

(4) The Board may, out of its funds, subsidise any fund or scheme established, with the approval of the Minister

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of Finance for the purpose of providing superannuation or retiring allowances for the officers and employees appointed under this section.

Cf. 1935, No. 38, s. 11; 1935, No. 41, s. 37 (1) (f), (2)

5 **30. Members of Board or Tribunal not personally liable for its acts**—No member of the Board or of the Tribunal shall be personally liable for any act or default done or made by the Board or by the Tribunal or by any member thereof in good faith in the course of the operations of the Board
10 or the Tribunal.

Cf. 1935, No. 38, s. 23

PART II

LICENCES AND QUOTAS

15 **31. Tobacco not to be grown without licence**—(1) Subject to subsection (2) of this section, no tobacco shall be grown on any land in New Zealand by any person except in accordance with a licence in force under this Act in respect of that land and that person.

(2) This section shall not apply with respect to the
20 growing of any tobacco—

(a) By any person on any land owned, leased, or rented by him if and as long as no tobacco grown by him is—

25 (i) Manufactured or intended to be manufactured, except by him for the use of himself and the members of his family residing with him; or

(ii) Sold or intended to be sold to any person, whether or not in a manufactured state; or

30 (b) By any person for the purposes of research where the tobacco is grown under the direction and control of the Department of Scientific and Industrial Research.

(3) If any tobacco is grown in contravention of this section, the grower of the tobacco, and every other person who aids,
35 assists, or is concerned in the growing thereof,—

(a) Shall be liable on summary conviction to a fine not exceeding \$500 and to a further fine of the value of the tobacco; and

40 (b) Shall be liable on summary conviction to a fine not exceeding \$50 for every day on which the offence is continued after a conviction under paragraph (a) of this subsection.

Cf. 1935, No. 38, s. 12

32. Grant of licences—(1) On application in the prescribed manner by any person, and on payment of the prescribed fee (if any), the Committee may, subject to this Act and any regulations made thereunder, grant to that person a licence authorising him to grow tobacco in accordance with this Act. 5

(2) In exercising its functions under this section the Committee shall not unreasonably refuse a licence to an applicant who it is satisfied was the holder of a licence granted under the Tobacco Growing Industry Act 1935, and in force on the 31st day of July 1973. 10

(3) Every licence granted under this section shall specify—

(a) The name of the licensee; and

(b) The land on which the tobacco is to be grown; and

(c) The basic quota of tobacco leaf determined by the Committee as applicable to that land. 15

(4) Every licence granted under this section shall apply only in respect of tobacco grown—

(a) Subject to section 33 of this Act, by the licensee specified in the licence; and 20

(b) On the land specified in the licence,—
and no tobacco leaf grown by any licensee on any land other than the land specified in his licence shall form part of his basic quota or adjusted quota.

(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, weeds, or suckers as shall from time to time be approved and published by the Board on the recommendation of the Tobacco Research Committee. 30

(6) Every licence granted under this section shall continue in force in respect of the land specified in the licence until it is surrendered by the licensee or revoked under this Act:

Provided that the Committee may, in special circumstances, grant a limited licence for a specified period only. 35

(7) Where a decision against which the applicant may appeal is given under the foregoing provisions of this section, the reason therefor shall be stated in writing.

Cf. 1935, No. 38, s. 13

33. Transfer of licence—(1) With the prior approval in writing of the Committee, a licence granted under section 32 of this Act in respect of any land may be transferred to any 40

person and shall continue in force in respect of that land as if the licence had been granted to that person in respect of that land.

(2) The approval of the Committee to the transfer of a
5 licence pursuant to subsection (1) of this section shall not be unreasonably withheld.

(3) With the prior approval in writing of the Committee, a licence granted under section 32 of this Act in respect of
10 land and shall continue in force in respect of that other land as if the licence had been granted in respect of that land.

(4) No approval given by the Committee under subsection (3) of this section shall be operative for more than one season:

15 Provided that the Committee may, upon re-application by the licensee at any time prior to the expiration of that season, grant approval for an extension of the period of transfer for one further season.

(5) In exercising the powers granted it under subsections (3) and (4) of this section the Committee shall not agree to
20 a transfer of any licence, or to an extension of time for any such transfer, unless it is satisfied that there are strong and compelling reasons to do so.

(6) Where a decision against which the applicant may
25 appeal is given under the foregoing provisions of this section, the reason therefor shall be stated in writing.

34. Application for increase in basic quota—(1) Any licensee who desires an increase or a decrease in his basic quota may apply to the Committee accordingly.

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

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

35 (a) Refuse the application; or
(b) Grant the application by increasing or decreasing the basic quota by such amount as it thinks fit; or
(c) Defer final consideration of the application until further
40 information has been received, either from the applicant or from any other person.

(4) Upon consideration of any application made for a decrease in a basic quota, the Committee shall grant the application unless it is satisfied that there are strong and compelling reasons not to do so.

(5) Where a decision against which the applicant may appeal is given under the foregoing provisions of this section, the reason therefor shall be stated in writing.

35. Revocation of licences and reduction of basic quotas—

- (1) Where the Committee is satisfied that a licensee— 5
- (a) Has failed for 2 successive seasons to plant a sufficient area of tobacco to produce his basic quota or adjusted quota, whichever is the less; or
 - (b) Has failed for 2 successive seasons to produce his adjusted quota; or 10
 - (c) Has been granted a licence erroneously in consequence of any false document, statement, or representation; or
 - (d) Has been convicted of any offence against this Act, or has committed a breach of any condition of his licence— 15

the Committee may by notice call upon the licensee to show cause within the time specified in the notice (not being less than 28 days after the date of the notice) why the Committee should not— 20

- (a) Revoke his licence; or
- (b) Reduce the amount of his basic quota by such amount as is specified in the notice.

(2) Where the licensee fails to show cause within the time specified in the notice, or within any extension of time which the Committee, in its discretion, may allow, the Committee may revoke his licence or reduce his basic quota by the amount specified in the notice. 25

(3) Where the licensee shows cause why the Committee should not revoke his licence, the Committee may, if it thinks fit, reduce his basic quota by such amount as it thinks equitable. 30

(4) Where the licensee shows cause why the Committee should not reduce his basic quota by the amount specified in the notice, the Committee may, if it thinks fit, reduce his basic quota by such lesser amount as it thinks equitable. 35

(5) Where a decision against which the licensee may appeal is given under the foregoing provisions of this section, the reason therefor shall be stated in writing.

36. Appeals—(1) Any person who is aggrieved by a decision of the Committee upon an application made by him under section 32, section 33 or section 34 of this Act, or by a decision revoking his licence or reducing his basic quota, may appeal against the decision to the Tribunal. 40

- (2) An appeal under this section shall be limited to one or more of the following grounds:
- (a) That the decision of the Committee was reached in contravention of the provisions of this Act:
 - 5 (b) That the decision of the Committee would cause severe personal hardship to the appellant:
 - (c) That, in relation to the revocation of a licence or a reduction in a basic quota, the Committee has not acted in an equitable manner:
 - 10 (d) That the decision was unreasonable.
- (3) In relation to every appeal brought under this section:
- (a) The appellant shall have the right to appear in person and, should he so elect, to be represented by counsel:
 - 15 (b) The Tribunal shall cause 7 clear days notice of the date of the hearing of the appeal to be given to the appellant:
 - (c) Every appeal shall be made in the prescribed form and in the prescribed manner.
 - (4) The Tribunal shall determine every appeal and may
 - 20 by its decision confirm, vary, or reverse the decision of the Committee, and shall state the reason for its determination.
 - (5) Except as provided in sections 38 and 39 of this Act, the decision of the Tribunal on every appeal to which this section relates shall be final and conclusive.

25 **37. Tribunal may state case for opinion of Supreme Court**—(1) The Tribunal may at any time, before or during a hearing or before delivering its decision, on the application of the appellant or of its own motion, state a case for the opinion of the Supreme Court on any question of law arising

30 in any proceedings before the Tribunal.

(2) Every question of law arising in any case stated under this section shall be heard and determined by the Administrative Division of the Supreme Court.

35 (3) The Supreme Court may order the removal into the Court of Appeal of any case stated for the opinion of the Supreme Court under this section.

(4) The Supreme Court or the Court of Appeal, as the case may be, shall hear and determine the question, and shall remit its case with its opinion to the Tribunal.

40 **38. Appeals to Supreme Court on questions of law only**—(1) Where any party to any proceedings before the Tribunal is dissatisfied with any determination of the Tribunal as

being erroneous in point of law, he may appeal to the Supreme Court by way of case stated for the opinion of the Court on a question of law only.

(2) Every such appeal shall be heard and determined by the Administrative Division of the Supreme Court. 5

(3) Within 14 days after the date of the determination the appellant shall lodge a notice of appeal with the Clerk of the Tribunal. The appellant shall forthwith deliver or post a copy of the notice to every other party to the proceedings. 10

(4) Within 14 days after the lodging of the notice of appeal, or within such further time as the Chairman of the Tribunal may in his discretion allow, the appellant shall state in writing and lodge with the Clerk of the Tribunal a case setting out the facts and the grounds of the determination and specifying the question of law on which the appeal is made. The appellant shall forthwith deliver or post a copy of the case to every other party to the proceedings. 15

(5) As soon as practicable after the lodging of the case, the Clerk of the Tribunal shall submit it to the Chairman of the Tribunal. 20

(6) The Chairman shall, as soon as practicable, and after hearing the parties if he considers it necessary to do so, settle the case, sign it, send it to the Registrar of the Supreme Court at Wellington, and make a copy available to each party. 25

(7) The settling and signing of the case by the Chairman shall be deemed to be the statement of the case by the Tribunal.

(8) If within 14 days after the lodging of the notice of appeal, or within such further time as may be allowed, the appellant does not lodge a case pursuant to subsection (4) of this section, the Chairman of the Tribunal may certify that the appeal has not been prosecuted. 30

(9) The Court or a Judge thereof may in its or his discretion, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the lodging of a notice of appeal or the stating of any case. 35

(10) Subject to the provisions of this section, the case shall be dealt with in accordance with rules of Court. 40

39. **Appeals to Court of Appeal**—The provisions of section 144 of the Summary Proceedings Act 1957 shall apply in respect of any determination under section 38 of this Act as if the determination were made under section 107 of the
5 Summary Proceedings Act 1957.

40. **Percentage of New Zealand tobacco to be used by manufacturers**—No manufacturer shall manufacture, or cause or permit to be manufactured, any tobacco in any period of 12 months commencing on the 1st day of August
10 in any year unless the whole of the raw tobacco, whether grown in New Zealand or elsewhere, delivered for use by that manufacturer to the factory in a tobacco-manufacturing warehouse licensed under Part VI of the Customs Act 1966 during that period contains in the aggregate not less than
15 30 percent (or such other percentage as the Governor-General, by Order in Council, declares in respect of that period) by weight of tobacco grown in New Zealand.

41. **Manufacturers to inform Board of quota leaf requirements**—(1) On or before the 1st day of July in each year,
20 every manufacturer shall furnish to the Board a return in writing, specifying—

(a) Its requirements of quota leaf, expressed in terms of green-weight, to be produced in New Zealand for the season commencing on the next succeeding 1st
25 day of September:

(b) Its minimum requirements of quota leaf, expressed in terms of green-weight, to be produced in New Zealand for the 2 seasons next succeeding that
season:

30 (c) Its estimated requirements of quota leaf, expressed in terms of green-weight, to be produced in New Zealand for the 2 seasons next succeeding those seasons:

35 Provided that the return that would otherwise be furnished on or before the 1st day of July 1974 shall be furnished within one month after the date of the passing of this Act.

(2) Every manufacturer shall be obliged to purchase the quantity of quota leaf specified by it under paragraph (a) of subsection (1) of this section in the season to which it
40 relates.

(3) The minimum requirements specified by any manufacturer under paragraph (b) of subsection (1) of this section in respect of any season shall not be reduced in any subsequent return by the manufacturer in respect of that season: 5

Provided that in any case where the Board is satisfied that, by reason of a substantial decrease in the sales of manufactured tobacco by any manufacturer, it would be inequitable for that manufacturer to be obliged to purchase the minimum amount so specified in respect of any season, 10 the Board may permit that amount to be reduced to such amount as it considers equitable in any subsequent return by that manufacturer in respect of that season.

(4) Where the amount of quota leaf or over-quota leaf available for purchase by any manufacturer is less than the amount specified by the manufacturer under paragraph (a) of subsection (1) of this section, the amount so specified shall be deemed to be reduced to that lesser amount for the purposes of this section. 15

(5) Every manufacturer who fails without reasonable cause to comply with any of the foregoing provisions of this section commits an offence, and shall be liable, on conviction on indictment to a fine not exceeding \$20,000. 20

(6) This section shall come into force on the date of the passing of this Act. 25

42. Board to determine the Domestic Tobacco Quota— Before the beginning of each season the Board shall determine the Domestic Tobacco Quota for that season, which Quota shall represent the total of the quantities of quota leaf specified by the manufacturers for that season under paragraph (a) of subsection (1) of section 41 of this Act. 30

43. 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, an adjusted quota for that season. 35

(2) The adjusted quota of each licensee shall be determined by taking into consideration—

- (a) His basic quota; and
- (b) The Domestic Tobacco Quota for that season; and
- (c) Any export orders for that season's quota leaf. 40

5 **44. Sale of quota leaf**—(1) Subject to the provisions of this Act, quota leaf shall be delivered and offered for sale on such terms and conditions, and in accordance with such procedures, as may be prescribed by regulations made under this Act.

(2) Before any such regulations are made, the Minister shall consult with the Board, the New Zealand Tobacco Growers' Federation Incorporated, and the manufacturers.

10 (3) In the absence of any such regulations and so far as such regulations do not extend, the following provisions shall apply:

15 (a) Each manufacturer shall be obliged to purchase the quantity of quota leaf specified by it under paragraph (a) of subsection (1) of section 41 of this Act exclusively from those licensees whose adjusted quotas are allocated to it under paragraph (d) of this subsection:

20 (b) On or before the 1st day of August in each year every licensee shall forward to the Board in writing the name of the manufacturer to which he desires his adjusted quota to be allocated for the season commencing on the next succeeding 1st day of September:

25 (c) The statement required by paragraph (b) of this subsection shall also include the names, in descending order of preference, of other manufacturers to which the licensee desires his adjusted quota to be allocated in the event of its non-allocation to the manufacturer referred to in that paragraph:

30 (d) 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 the manufacturer's requirements as specified under paragraph (a) of subsection (1) of section 41 of this Act:

35 (e) The Board shall endeavour but be under no duty to allocate adjusted quotas to those manufacturers named by licensees under paragraph (b) of this subsection:

40 (f) Nothing in this subsection shall compel any manufacturer to purchase any quota leaf in excess of his requirements as specified under paragraph (a) of subsection (1) of section 41 of this Act.

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45. Classification of quota leaf—(1) Prior to the purchase of any quota leaf by any manufacturer or its representative, the leaf shall be classified, in accordance with the Schedule of Standard Grades, by persons appointed by the Minister on the advice of the Board. 5

(2) This section shall come into force on a date to be appointed by the Governor-General by Order in Council.

46. Price of quota leaf—(1) Prior to the commencement of each season the Board shall determine those grades of the Schedule of Standard Grades which shall be quota grades for the following season. 10

(2) Subject to the provisions of subsection (2) of section 48 of this Act, the minimum price per kilogram of each grade of quota leaf shall be fixed by the Department of Trade and Industry after consultation with the Board and the prices so fixed shall remain operative until altered by the Department after consultation with the Board. 15

47. Payment for quota leaf—A manufacturer shall make payment to the vendor within 14 days of the purchase of quota leaf by the manufacturer. 20

48. Over-quota leaf—(1) Where in any season any licensee produces any over-quota leaf, the Board shall, if it is satisfied that a shortfall exists, declare that leaf or a part thereof to be within the licensee's adjusted quota, and such leaf shall be treated accordingly for all purposes. 25

(2) Where in any season any licensee produces any over-quota leaf and the Board is satisfied that there is no shortfall for that season, the Board shall refuse to declare that leaf to be within the licensee's adjusted quota.

(3) Any over-quota leaf falling within the provisions of subsection (2) of this section shall be dealt with or disposed of in such manner and upon such conditions as the Board thinks fit. 30

49. Non-quota leaf—Where in any season any licensee produces any non-quota leaf that leaf shall be dealt with or disposed of in such manner and upon such terms and conditions as the Board thinks fit. 35

PART III

MISCELLANEOUS PROVISIONS

50. Offences and penalties—(1) Every person commits an offence against this Act who—

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

(b) Fails to comply with any condition attached to a licence under this Act.

(2) Every person who commits an offence against this Act
15 for which no penalty is provided except in this section shall be liable on summary conviction to a fine not exceeding \$500, and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day on which the offence is continued.

20 Cf. 1935, No. 38, s. 24

51. Provision for transfer of powers of Board to Minister of Agriculture and Fisheries—Sections 7 and 8 of the Agriculture (Emergency Powers) Act 1934 are hereby extended to apply with respect to the Board as if the Board and this
25 Act had been referred to in subsection (1) of the said section 7.

Cf. 1935, No. 38, s. 25

52. Regulations—The Governor-General may from time to time, by Order in Council, make regulations—

30 (a) Prescribing forms of applications and of licences, and such other forms as may be required for the purposes of this Act:

(b) Prescribing fees to be paid in respect of applications under this Act and in respect of the granting of licences thereunder:
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(c) Prescribing the criteria upon which applications for the granting of licences and the transfer of licences are to be determined:

(d) Prescribing the criteria upon which the basic quota
40 applicable to any land is to be determined:

- (e) Prescribing conditions upon which licences may be granted and conditions to be attached to licences granted under this Act:
- (f) Prescribing the methods to be adopted in the collection of the levies that may be imposed on tobacco under this Act: 5
- (g) Providing for the insurance of growers against loss or damage to tobacco crops and prescribing conditions in respect of any insurance scheme in force under the regulations: 10
- (h) Prescribing the conditions upon which the tobacco leaf produced in New Zealand may be exported or made available for export:
- (i) Prescribing purposes for which the money of the Board may be expended: 15
- (j) Prescribing offences against the regulations; and prescribing penalties for such offences not exceeding a fine of \$200 and, in the case of a continuing offence, a further fine of \$20 for every day on which the offence is continued: 20
- (k) Prescribing the procedure to be followed by the Board, the Committee and the Tribunal:
- (l) For any other purposes for which regulations are contemplated by or may be required to give effect to this Act. 25

Cf. 1935, No. 38, s. 26; 1965, No. 12, s. 6

53. Repeals and savings—The enactments specified in the Schedule to this Act are hereby repealed.

54. Transitional provisions—(1) Notwithstanding any other provision of this Act, the first persons to hold office on the Board as the 3 growers' representatives under paragraph (d) of subsection (1) of section 4 of this Act (such growers' representatives hereinafter in this subsection being referred to as the new members) shall, instead of being elected by the growers, be appointed by the Minister by notice in the *Gazette* in accordance with the following provisions: 30 35

- (a) The Minister shall consult with the growers' representatives holding office on the Board as growers' representatives under the former Act (such growers' representatives hereinafter in this subsection being 40

referred to as the old members) with regard to the persons to be appointed as the new members, and, so far as the old members are willing to be appointed, shall appoint the new members from among the old members:

5 (b) The terms of office of the 3 new members shall be as follows:

(i) One shall be appointed for a term ending on the expiration of the 31st day of August 1975:

10 (ii) One shall be appointed for a term ending on the expiration of the 31st day of August 1976:

(iii) One shall be appointed for a term ending on the expiration of the 31st day of August 1977.

15 (2) Every person appointed by the Minister under subsection (1) of this section shall be deemed for the purposes of this Act to have been duly appointed to the Board under paragraph (d) of subsection (1) of section 4 of this Act.

20 (3) Notwithstanding any other provision of this Act, the first persons to hold office on the Board as the 3 manufacturers' representatives under paragraph (e) of subsection (1) of section 4 of this Act (such manufacturers' representatives hereinafter in this subsection being referred to as the new members) shall be appointed by the Minister by notice in the *Gazette* in accordance with the following provisions:

25 (a) The Minister shall consult with the manufacturers' representatives holding office on the Board as manufacturers' representatives under the former Act (such manufacturers' representatives hereinafter in this subsection being referred to as the old members) with regard to the persons to be appointed as the new members, and, so far as the old members are willing to be appointed, shall appoint the new members from among the old members:

30 (b) The terms of office of the 3 new members shall be as follows:

35 (i) One shall be appointed for a term ending on the expiration of the 31st day of August 1975:

(ii) One shall be appointed for a term ending on the expiration of the 31st day of August 1976:

40 (iii) One shall be appointed for a term ending on the expiration of the 31st day of August 1977.

(4) Every person appointed by the Minister under subsection (3) of this section shall be deemed for the purposes of this Act to have been duly appointed to the Board under paragraph (e) of subsection (1) of section 4 of this Act.

Section 53

SCHEDULE

ENACTMENTS REPEALED

- 1935, No. 38—The Tobacco Growing Industry Act 1935. (1957 Reprint, Vol. 15, p. 635.)
- 1935, No. 41—The Finance Act (No. 2) 1935: Section 37 (1) (f). (1957 Reprint, Vol. 15, p. 648.)
- 1951, No. 36—The Tobacco Growing Industry Amendment Act 1951. (1957 Reprint, Vol. 15, p. 648.)
- 1951, No. 79—The Fees and Travelling Allowances Act 1951: So much of the First Schedule as relates to the Tobacco Board and so much of the Second Schedule as relates to the Tobacco Growing Industry Act 1935. (1957 Reprint, Vol. 4, p. 853.)
- 1965, No. 12—The Tobacco Growing Industry Amendment Act 1965.
- 1967, No. 120—The Tobacco Growing Industry Amendment Act 1967.