



## THE APPLE AND PEAR MARKETING REGULATIONS 1975

DENIS BLUNDELL, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington this 4th day of August 1975

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Apple and Pear Marketing Act 1971, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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### REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Apple and Pear Marketing Regulations 1975.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

**2. Interpretation**—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Apple and Pear Marketing Act 1971:

“Board” means the New Zealand Apple and Pear Marketing Board established under the Act, and includes any agent appointed in terms of section 15 of the Act:

“Fruit” means apples or pears or both:

“Grower” means a person carrying on business as a producer of apples or pears for sale:

“Manufacturer” means a person engaged in the manufacture for sale by way of wholesale of a product for human consumption containing fruit:

“Public notice” means notice published either in the *Gazette*, or in a newspaper or newspapers commonly circulating in fruit-growing areas, as the Board shall decide.

(2) The fact that an agent, purporting to act under a power delegated by the Board under section 15 of the Act, exercises any power of the Board shall, in the absence of any proof to the contrary, be sufficient evidence of his authority to do so, except in respect of powers granted to the Board under Part III of the Act.

### *Permitted Sales*

**3. Permitted sales to manufacturers**—Notwithstanding the provisions of section 42 (1) of the Act, a grower may sell apples or pears or both to a manufacturer if—

- (a) The apples or pears sold are grown by the grower; and
- (b) The manufacturer is for the time being specified by the Board as a manufacturer to whom growers may sell direct, in accordance with this regulation, apples or pears or both grown by them; and
- (c) The apples or pears sold are of a kind, variety, standard, or quality for the time being approved by the Board for the purposes of this regulation; and
- (d) The apples or pears are delivered to the manufacturer in a container that bears such markings (if any) as the Board from time to time requires; and
- (e) The amount of apples or pears sold is within the limits (if any) for the time being specified by the Board for the purposes of this regulation in respect of the kind or variety or standard or quality of apples or pears sold; and
- (f) The sale takes place during the period (if any) for the time being specified by the Board for sales of apples or pears or both under this regulation.

**4. Permitted sales to retailers in specified areas**—(1) Notwithstanding the provisions of section 42 (1) of the Act, a grower may sell apples or pears or both to a retailer if—

- (a) The apples or pears sold are grown by the grower; and
- (b) The retailer carries on his business in an area for the time being specified by the Board as an area within which growers may sell apples or pears or both grown by them direct to retailers in accordance with this regulation; and
- (c) The apples or pears sold are of a kind, variety, standard, or quality for the time being approved by the Board for sale in that area under this regulation; and
- (d) The apples or pears are delivered to the retailer in a container that bears such markings (if any) as the Board from time to time requires; and

(e) The amount of apples or pears sold is within the limits (if any) for the time being specified by the Board for the purposes of this regulation in respect of the kind or variety or standard or quality of apples or pears sold; and

(f) The sale takes place during the period (if any) for the time being specified by the Board for sales of apples or pears or both under this regulation.

(2) Any fruit sold to a retailer in accordance with subclause (1) of this regulation may be sold by him notwithstanding the provisions of section 42 (1) of the Act.

**5. Permitted sales at municipal markets—**(1) Notwithstanding the provisions of section 42 (1) of the Act, a grower may sell apples or pears or both to any consumer if—

(a) The apples or pears sold are grown by the grower; and

(b) The sale takes place at a market place provided by a borough council under section 318 of the Municipal Corporations Act 1954; and

(c) The grower is for the time being specified by the Board as a grower who may make sales in accordance with this regulation.

(2) The Board shall not specify any grower as a grower who may make sales in accordance with this regulation unless that grower has made written application to the Board to be so specified.

(3) Subject to subclause (4) of this regulation, the grower shall state in his application the period for which he desires to be so specified or the date until which he desires to be so specified and, unless the grower and the Board otherwise agree, the Board shall not so specify that grower for any other period or until any other date.

(4) If the Board is satisfied that any grower who is entitled to make sales in accordance with this regulation has not been actively exercising his right to make such sales or if any such grower is convicted of an offence against the Act or regulations made under the Act, the Board may declare that that grower is no longer entitled to make such sales and shall, in any such case, notify the grower accordingly whereupon he shall cease to be specified as a grower who may make such sales.

(5) As long as any grower is entitled to make sales in accordance with this regulation the Board shall not be obliged to purchase the apples and pears of that grower in accordance with section 19 (1) of the Act.

#### *Records and Returns*

**6. Growers to keep records—**(1) Every grower shall keep records in a form for the time being approved by the Board of the quantity, kind, and variety of fruit harvested and sold or otherwise disposed of by him.

(2) Such records shall be retained by the grower for a period of 3 years after the close of the season to which they relate.

(3) Every grower commits an offence against these regulations who acts in contravention of or fails to comply with any provision of this regulation.

**7. Growers to furnish returns**—(1) Every grower shall from time to time, when required by the Board to do so, furnish a return in writing to the Board showing—

- (a) The varieties of fruit currently being grown by him;
- (b) The estimated quantity of each and every variety of fruit expected to be harvested, during such period or periods as the Board may specify, from any orchard occupied by him;
- (c) In respect of each variety of fruit sold by him to persons other than the Board, during such period or periods as the Board may specify,—
  - (i) The total quantity of that variety which has been sold directly from the orchard, and the total price obtained for it;
  - (ii) The total quantity of that variety which has been sold by mail order or delivered by the grower, and the total price obtained for it;
- (d) In respect of each variety of fruit held by the grower for sale on a date to be specified by the Board, the total quantity so held and the place or places of storage.

(2) Every grower commits an offence against these regulations who without reasonable excuse (the proof of which shall lie on him) fails to comply with any requirement of the Board under subclause (1) of this regulation.

**8. Records to be kept by wholesalers and retailers**—(1) Every person engaged in the business of selling fruit, whether by wholesale or by retail, shall—

- (a) Retain all dockets and invoices relating to any fruit purchased by him for at least 3 years after the purchase of that fruit; and
- (b) In respect of any fruit purchased by him from any grower in accordance with regulation 4 of these regulations, keep for at least 3 years after the purchase a record of—
  - (i) The quantity of each variety of fruit purchased; and
  - (ii) The name and address of the person from whom he purchased the fruit.

(2) Every person commits an offence against these regulations who acts in contravention of or fails to comply with any provision of this regulation.

#### *Inspection*

**9. Inspection**—(1) Every grower and every person engaged in the business of storing or selling fruit shall at any time during ordinary business hours when required by an officer of the Board duly authorised by the Board in that behalf—

- (a) Allow all stocks of fruit for the time being in his possession to be examined by that officer;
- (b) Produce for inspection all dockets, invoices, and records relating to the growing, purchase, receipt, storage, sale, or disposal of fruit;
- (c) Allow that officer to make copies of or take extracts from any such documents.

(2) Every person commits an offence against these regulations who refuses or neglects to comply with any requisition made pursuant to this regulation.

*Acquisition of Apples and Pears*

**10. Growers to furnish submit-notes**—(1) All fruit submitted by a grower to the Board for purchase shall be delivered by the grower to the Board at such places and at such times as the Board may from time to time, by public notice or by notice to the grower, appoint as places and times for delivery.

(2) Every grower shall furnish to the Board in triplicate with each consignment of fruit so submitted a submit-note in a form approved by the Board setting out correctly the kind, variety, grade, quantity, and count of the fruit, together with such other particulars as the Board may require. Where the grower is for the time being permitted under regulation 5 of these regulations to make sales at municipal markets, the submit-note shall be accompanied by a document stating that the grower is permitted to make such sales and stating the conditions (if any) upon which the Board has agreed to purchase fruit from him.

(3) Every submit-note furnished under this regulation shall be endorsed with an acknowledgment by an inspector appointed under the Plants Act 1970 that the description of the fruit in the submit-note in respect of variety, grade, and size is correct.

(4) Where fruit is accepted by the Board the Board shall signify its acceptance by transmitting a copy of the submit-note to the grower as notice of the acquisition.

(5) The Board may decline to accept any fruit until a submit-note endorsed in accordance with these regulations is delivered to the Board.

**11. Payments to growers**—(1) Payment to each grower for fruit acquired by the Board shall be made payable to the order of the grower or of a person named by the grower for that purpose.

(2) Such payment may be deferred until such time as the Board shall determine:

Provided that advance payments to growers may be made and such advances shall be deducted from the final credit for the fruit.

*Miscellaneous Provisions*

**12. Carriers to have waybills**—(1) Every carrier commits an offence who, being the holder of a goods-service licence issued under the Transport Act 1962, fails, when carrying in excess of 40 kilograms of fruit, to carry a waybill for that fruit showing—

(a) The name and address of the owner of the fruit; and

(b) The name and address of the person from whom the carrier received the fruit; and

(c) The name and address of the consignee of the fruit.

(2) Every such carrier commits an offence who fails upon demand by any officer of the Board authorised by the Board in that behalf, to produce any such waybill for inspection.

**13. Penalties**—Every person who commits an offence against these regulations is liable on summary conviction to a fine not exceeding \$400, in the case of an individual, and, in the case of a company or other corporation, to a fine not exceeding \$2,000.

**14. Revocations**—The following regulations are hereby revoked, namely—

- (a) The Apple and Pear Marketing Regulations 1949\*:
- (b) The Apple and Pear Marketing Regulations 1949, Amendment No. 2†:
- (c) The Apple and Pear Marketing Regulations 1949, Amendment No. 3‡.

\*S.R. 1949/159  
†S.R. 1954/24  
‡S.R. 1955/141

A. C. McLEOD,  
Acting for Clerk of the Executive Council.

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#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations consolidate and amend the Apple and Pear Marketing Regulations 1949 consequential on the passing of the Apple and Pear Marketing Act 1971.

Many of the changes are of a drafting nature but there are some new provisions.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 7 August 1975.

These regulations are administered in the Ministry of Agriculture and Fisheries.