



**THE BERRYFRUIT MARKETING LICENSING REGULATIONS
1983**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 2nd day of August 1983

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Primary Products Marketing Act 1953, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Berryfruit Marketing Licensing Regulations 1983.

(2) These regulations shall come into force on the 5th day of August 1983.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Act” means the Primary Products Marketing Act 1953:

“Agent” means any person (including a company) appointed by the Authority to carry out functions on behalf of the Authority in such a manner and in such terms as the Authority may decide:

“Authority” means the Berryfruit Marketing Licensing Authority established under regulation 3 of these regulations:

“Berryfruit” means blackcurrants and boysenberries, and includes all forms of those fruit whether processed or not:

“Director-General” means the Director-General of Agriculture and Fisheries:

“Exporter” means a licence holder:

“Federation” means the New Zealand Berryfruit Growers’ Federation (Incorporated):

“Garden” means an area of land used for the production of berryfruit (for which an annual berryfruit levy is paid) under the Berryfruit Levy Act 1967:

“Horticultural Export Development Committee” means the committee of that name appointed by the Minister under the Ministry of Agriculture and Fisheries Act 1953:

“Industry journal” means the periodical called the “New Zealand Commercial Grower” or any similar periodical approved by the Authority:

“Licence” means a licence to export berryfruit granted by the Authority pursuant to these regulations; and includes a provisional licence:

“Permit” means the written exemption from licensing granted by the Authority under regulation 12 (1) (h), 12 (1) (i), or regulation 20 (5) of these regulations:

“Producer” means the owner or occupier of a garden of which not less than 250 square metres are planted in berryfruit plants:

“Roll” means a list of producers compiled from berryfruit levy returns held by the Federation:

“Sale” includes barter; and also includes exporting, offering, exposing, or attempting to sell, or having in possession for sale, or delivering by way of gift or sample, or causing or allowing to be sold; and “sell” has a corresponding meaning.

PART I

BERRYFRUIT MARKETING LICENSING AUTHORITY

3. Berryfruit Marketing Licensing Authority—(1) There is hereby established a marketing authority to be called the Berryfruit Marketing Licensing Authority.

(2) The Authority shall consist of 9 members appointed by the Minister as follows:

- (a) Two members, who shall be nominated annually through the Federation by the growers of blackcurrants to represent those growers:
- (b) Two members, who shall be nominated annually through the Federation by the growers of boysenberries to represent those growers:
- (c) Two members, who shall be nominated annually by the Federation from the members of its Dominion Executive to represent the Federation:
- (d) Two members, who shall be nominated annually by the berryfruit subcommittee of the Horticultural Exporters Council to represent berryfruit exporters:
- (e) One member, who shall be appointed as a representative of the Government for such period not exceeding 3 years as the Minister thinks fit.

(3) Members of the Authority nominated annually under subclause (2) of this regulation shall be appointed for a term of one year, but may be renominated and reappointed.

(4) Unless he sooner vacates his office under regulation 4 of these regulations, every member of the Authority shall continue in office until his successor is appointed.

(5) The representative of the Government shall, in addition to his other functions under these regulations, represent the interests of consumers of berryfruit.

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

(7) Notwithstanding subclause (3) of this regulation, of the first 2 members appointed as representatives under each of paragraphs (a) to (d) of subclause (2) of this regulation one of the members shall be appointed for a term of 2 years and the other for one year, the term to be decided by agreement between the members concerned or, failing agreement, by lot.

4. Extraordinary vacancies—(1) Any member of the Authority 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.

(2) Any member may at any time resign his office by writing addressed to the Minister.

(3) If any member of the Authority dies, or resigns, or is removed from office, his office shall become vacant and the vacancy shall be an extraordinary vacancy.

(4) An extraordinary vacancy shall be filled by the appointment of some qualified person in the same manner as the appointment of the vacating member.

(5) Any member appointed to fill an extraordinary vacancy shall hold office for the residue of the term of which the vacating member was appointed.

(6) Every person appointed pursuant to this regulation shall be deemed for all purposes to be a member of the Authority.

5. Deputies of members—(1) The Minister may, either concurrently with the appointment of a member to the Authority, or at any time thereafter, appoint a deputy for the member; and such deputy may act in place of the member to whom he is appointed deputy while that member is prevented by illness, absence, or other sufficient cause from performing the duties of his office; but no more than one deputy shall be appointed to act for both members appointed under each of paragraphs (a), (b), (c), and (d) of regulation 3 (2) of these regulations.

(2) Every deputy appointed to act for members appointed under the provisions mentioned in subclause (1) of this regulation shall be appointed by the Minister after consultation with the body who nominated those members.

(3) Any appointment as deputy may at any time be revoked by the Minister.

(4) Any deputy appointed under this regulation shall, while he acts as such, be deemed to be a member of the Authority appointed under the same conditions as the member for whom he is deputising.

6. Proceedings of Authority not invalidated—No proceedings of the Authority shall be invalidated by reason only of the subsequent discovery that some defect existed in the nomination or appointment of any member or deputy, or that any person acting as a member or deputy was not a member or deputy.

7. Chairman and Deputy Chairman—(1) At the first meeting of the Authority and thereafter in the month of July every year, the Authority shall elect a Chairman and a Deputy Chairman for the ensuing 12 months.

(2) Every person elected as Chairman or Deputy Chairman shall hold office until his successor comes into office, and shall be eligible for re-election.

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

(4) In the absence of the Chairman from any meeting the Deputy Chairman shall preside, and, if both should be absent, one of the members present shall be appointed by the members attending to preside at the meeting.

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

8. Meetings of Authority—(1) The first meeting of the Authority shall be held at a time and place to be appointed by the Minister; and thereafter meetings of the Authority shall be held at such times and places as the Authority shall from time to time appoint:

Provided that at least one meeting shall be held in each year.

(2) The Chairman of the Authority, or any 3 members, may, at any time after having given at least 7 clear days' notice to the other members, call a special meeting.

(3) At all meetings of the Authority, a quorum shall be formed by 5 members of whom at least one shall be either the Government representative or a member representing exporters.

(4) All questions arising at any meeting of the Authority shall be decided by a majority of the members present.

(5) A resolution in writing signed or assented to by letter or telegram or telex by all members of the Authority (other than by any member who has indicated that he will abstain from voting) shall be as valid and effectual as if it had been passed at a meeting of the Authority duly called and constituted.

(6) Subject to the provisions of these regulations and the Act, the Authority may regulate its own procedure.

9. Committees and delegations—(1) The Authority may from time to time appoint advisory or technical committees of one or more persons as it thinks fit to advise the Authority on such matters relating to its functions and powers as are referred to them by the Authority, and may, with the consent of the Minister, delegate to any such committee any of its functions and powers except those relating to the issuing of licences, the granting of permits, and the power to delegate under this regulation.

(2) Each advisory or technical committee may, in addition, furnish to the Authority reports on any matter concerning the berryfruit industry in respect of which the committee, or any member or members of it, may have special knowledge or experience.

(3) A person may be appointed to be a member of any committee appointed under this regulation whether or not he is a member of the Authority, but if he is not a member and is appointed chairman of the committee, the Authority shall either confirm or reject that appointment.

10. Secretary of Authority—(1) From time to time the Authority may appoint a Secretary, and prescribe the duties of his office.

(2) The Secretary shall not be a member of the Authority for the time of his tenure of office, and shall have no vote in the deliberations of the Authority.

(3) Nothing in this regulation shall derogate from the provisions of section 7 of the Act.

11. Personal liability—No member of the Authority or any of its committees shall be personally liable for any liability of the Authority or for any act done or omitted by the Authority or any of its committees or any member in good faith in pursuance or intended pursuance of the functions or powers of the Authority.

12. Functions and powers of Authority—(1) The principal functions of the Authority shall be—

- (a) To promote the export of berryfruit, and to encourage the marketing of berryfruit:
- (b) To assist in the general development of the berryfruit industry:
- (c) To establish minimum standards of packaging of berryfruit for export, which standards shall not be lower than any standards relating to berryfruit set by regulation or notice under the Plants Act 1970:
- (d) To advise the Director-General on plant health aspects and grade standards for berryfruit:
- (e) To issue berryfruit exporters' licences under these regulations:
- (f) Subject to regulation 13 of these regulations, to acquire berryfruit:

- (g) To set market terms and conditions, including minimum export prices:
- (h) To grant permits of exemption from licensing to export berryfruit from such specific berryfruit cultivars as the Authority may specify in an industry journal from time to time:

Provided that every exporter of such berryfruit so specified shall be entitled to be granted such a permit:

- (i) To grant permits of exemption from licensing to export such processed berryfruit juices, concentrates, and canned berryfruit as the Authority may specify in an industry journal from time to time:
 - (j) To report to the Minister from time to time on trends and prospects in overseas markets in respect of berryfruit; on movements in costs and prices or other factors likely to affect the economic stability of the berryfruit industry; and on such other matters as the Authority considers appropriate, or as the Minister may request:
 - (k) To carry out such other functions as may be conferred on it by or under these regulations or any other enactment.
- (2) The Authority shall carry out its functions under paragraphs (a), (b), (c), (d), and (j) of subclause (1) of this regulation in consultation with the Horticultural Exporters Development Committee while that committee remains in existence.
- (3) The Authority shall have all such powers as may be reasonably necessary or expedient to enable it to carry out its functions.

13. Acquisition of berryfruit—The Authority shall not acquire any berryfruit except for promotional or experimental purposes, or with the prior consent of the Minister and after the support of at least 80 percent of producers producing not less than 75 percent by weight of berryfruit for export has been obtained as indicated through a referendum of producers conducted by the Authority.

PART II

FINANCIAL PROVISIONS

14. Berryfruit Authority Account—(1) For the purposes of these regulations, the Authority shall establish with any trading bank in New Zealand, an account to be known as the Berryfruit Authority Account.

(2) There shall be paid into the Berryfruit Authority Account—

(a) All money derived from the operations of the Authority:

(b) All levies payable to the Authority:

(c) Any other money that may otherwise be lawfully paid to the Authority.

(3) There shall be paid out of the Berryfruit Authority Account all costs, charges, and expenditure incurred by the Authority in the performance of its duties and the exercise of its functions and powers under these regulations and in their administration.

(4) No money shall be drawn out of the Berryfruit Authority Account except by the approval of the Authority. All payments shall be made by cheque or other instrument (not being a promissory note or bill) signed by the treasurer to the Authority or other officer of the Authority appointed for that purpose, and countersigned by an Authority member, or by an officer or members of any committee of the Authority established under regulation 9 of these regulations authorised by the Authority from time to time to countersign such cheques.

(5) The Authority may from time to time establish within the Berryfruit Authority Account such special accounts and reserves as it considers necessary or expedient for any purpose authorised by these regulations.

15. Financial year—The financial year of the Authority shall end with the 31st day of March in each year.

16. Annual report and accounts—(1) Any producer or licensed exporter may request, in writing, the Authority to supply him with a copy of the annual report and accounts which the Authority is required to prepare for laying before Parliament pursuant to section 11 of the Act, and the Authority shall comply with any such request as soon as practicable.

(2) The Authority shall show in its annual accounts money specifically spent on the promotion of berryfruit.

17. Unauthorised expenditure—The Authority may, in any financial year out of its income available for general purposes, expend for purposes not authorised by these regulations any sum or sums not amounting in the aggregate to more than \$2,000.

18. Berryfruit levy—(1) Every producer of berryfruit shall, on all berryfruit produced for sale (whether for export, processing, or the domestic market), be liable to pay a levy (in these regulations called the berryfruit levy) to the Authority in accordance with this regulation.

(2) On or before the 30th day of September in each year, the Minister shall, after receiving the recommendations of the Authority, fix by notice in the *Gazette*—

(a) The rate at which the berryfruit levy (if any) is to be paid in the succeeding financial year; and

(b) The manner of payment and collection of such levy.

(3) A rate of levy shall be fixed for each specific kind or grade of berryfruit.

(4) If in any year the Authority makes no recommendation under subclause (2) of this regulation, the rate of levy for the next succeeding financial year shall be the same as that last fixed under that subclause.

(5) In respect of the period from the 1st day of the month immediately following the first meeting of the Authority until the 30th day of September next following, the rate and other provisions relating to the levy shall be as fixed by the Minister by notice in the *Gazette* after receiving the recommendations of the Authority.

19. Levy to be recoverable as a debt—Any levy payable to the Authority under regulation 18 of these regulations shall be recoverable in any Court of competent jurisdiction as a debt due to the Authority.

PART III

LICENSING OF BERRYFRUIT EXPORTERS

20. Exporters to hold licence—(1) Subject to subclauses (3) and (5) of this regulation and to regulation 21 (2) of these regulations, no person shall, after the commencement of these regulations, export berryfruit unless he is the holder of a current exporter's licence issued under these regulations or is exempt pursuant to a permit granted under paragraph (h) or paragraph (i) of regulation 12 (1) of these regulations.

(2) The holder of a current exporter's licence shall export only the berryfruit specified in his licence.

(3) These regulations shall not apply to fresh or unprocessed berryfruit packed in consumer packs of 5 kg or less.

(4) No person who is a grower representative on the Authority shall hold a licence to export berryfruit.

(5) Any person (not being an exporter) who wishes to export one particular consignment of berryfruit, or export one particular series of consignments, or to make a trial shipment, or in any other special case relating to the export of berryfruit, may apply to the Authority for a permit of exemption from licensing; and the Authority may grant such a permit subject to such terms and conditions as it thinks fit.

21. Applications for licence—(1) Every application for an exporter's licence shall—

- (a) Be made in writing addressed to the Secretary of the Authority on a form to be provided for that purpose by the Authority, and signed by or on behalf of the applicant;
- (b) Contain particulars of the facilities available for satisfactorily carrying on the business of berryfruit exporting;
- (c) Be accompanied by such fee as is for the time being specified by the Authority by notice in the *Gazette*.

(2) Every person who, as at the commencement of these regulations, was an exporter of berryfruit shall cease to export berryfruit upon the expiry of a period of 60 days from such date of commencement unless—

- (a) That person holds a licence; or
- (b) That person has made an application within that period to the Authority for a licence; or
- (c) That person, with the express written consent of the Authority in the special circumstances of the case, makes an application to the Authority for a licence outside that period but within a period of 90 days from such date of commencement.

22. Authority may require information from applicant—(1) The Authority may require an applicant for a licence to produce evidence of his business experience and financial standing, and any other information the Authority considers relevant for the purposes of regulation 23 of these regulations.

(2) The Authority shall, as soon as is practicable after the commencement of these regulations and then from time to time, publish a notice in the *Gazette* specifying the kinds of information it requires under subclause (1) of this regulation.

23. Grant of licence—(1) On receiving an application for a licence the Authority shall issue a licence to the applicant if, and only if, the Authority, in relation to the orderly marketing and control of export berryfruit, is satisfied of the need to issue a licence and that the applicant—

- (a) Subject to subclause (2) of this regulation, has produced the information required pursuant to regulation 22 of these regulations;
- (b) Is likely to be able to maintain an effective export marketing service in the interests of the berryfruit industry;
- (c) Is able to provide suitable facilities to adequately service producers and berryfruit for export:

- (d) Has adequate experience and competence in international marketing and in handling export produce:
- (e) Is of sound financial standing and of sound business repute:
- (f) Complies with the general policy of the Authority as determined from time to time by resolution in relation to the marketing and promotion of berryfruit:
- (g) Or any person in the opinion of the Authority likely to be involved in the exporting operations of the applicant, has not been convicted of an offence under any enactment relating to berryfruit or to exporting and has not had a licence revoked nor been involved in the exporting operations of any person whose licence has been revoked:
- (h) Or any person in the opinion of the Authority likely to be involved in the exporting operations of the applicant, has been convicted of an offence under any enactment relating to berryfruit or to exporting and has had a licence revoked or has been involved in the exporting operations of any person whose licence has been revoked, is still likely to carry out his exporting operations properly.

(2) Where an applicant objects to supplying information to the Authority on the grounds that it relates to confidential financial matters the unauthorised disclosure of which may prejudice the applicant's business, it shall be sufficient compliance with subclause (1) (a) of this regulation if—

- (a) The information is supplied in a form approved by the Authority in that particular case, notwithstanding that that form is not that specified pursuant to regulation 22 of these regulations; or
- (b) An authorised member of the Authority (not being a member representing exporters) inspects the books and accounts of the applicant in detail, and reports back to the Authority in general on the results of his inspection.

(3) Subject to subclause (3) of this regulation, every licence, unless it is sooner revoked, shall continue in force until the day specified in the licence whereupon it may be renewed or further renewed; and unless so renewed shall then expire.

(4) Where, before the expiration under subclause (2) of this regulation of any licence, the licensee applies for its renewal that licence shall not so expire until the day specified in the licence or until the Authority informs the licensee that it does not intend to renew the licence, whichever is the later.

24. Provisional licences—(1) Where, but for regulation 23 (1) (d) of these regulations, an applicant would otherwise be entitled to be granted a licence, or where a person wishes to commence exporting berryfruit or build up experience in or a history of exporting berryfruit for the purposes of these regulations, the Authority may grant to the applicant a provisional licence, subject to such terms and conditions as the Authority thinks fit.

(2) A provisional licence granted under this regulation shall be the equivalent of and have the same effect as a licence granted under regulation 23 of these regulations, but only to the extent of the terms and conditions endorsed on it.

(3) The same fees shall be payable in relation to a provisional licence as are payable in relation to a licence granted under the said regulation 23.

25. Renewals—(1) Every application for the renewal of a licence shall—

- (a) Be made to the Authority on a form provided by it for the purpose; and
 - (b) Be accompanied by such fee as is for the time being specified by the Authority by notice in the *Gazette*.
- (2) Subject to subclause (3) of this regulation, the Authority shall renew a licence if, and only if,—
- (a) The licence has not already expired under these regulations; and
 - (b) The Authority is satisfied of the matters specified in paragraphs (a) to (c) of regulation 23 (1) of these regulations in relation to the licensee.
- (3) The Authority may refuse to renew any licence if the licensee has not at any time within the previous 2 years exported any berryfruit from New Zealand.
- (4) When it renews a licence, the Authority shall issue a certificate of renewal to the licensee which certificate shall state the date upon which the renewed licence shall expire.

26. Authority may impose conditions—(1) Subject to subclause (2) of this regulation, on its grant or renewal, or at any other time, the Authority may, by written notice to the licensee, attach to a licence such conditions relating to the orderly export of berryfruit products (including conditions specifying particular markets or segments of markets to which berryfruit may be exported) as the Authority thinks fit; and the Authority may, after giving 2 months' notice, in the same manner vary or revoke any condition so attached.

(2) The Authority shall not attach to any licence any condition relating to particular berryfruit, or to particular markets or segments of markets, unless either—

- (a) The Authority has consulted with the exporter, the Federation, and other trade organisations whose views the Authority considers relevant; or
- (b) A similar condition is already attached to some other licence for the same berryfruit issued under these regulations.

27. Authority may require information from licensee—(1) The Authority may at any time require a licensee to produce to the Authority any information relating to the licensee's berryfruit exporting operations, and may require the licensee to verify by statutory declaration any information produced.

(2) All such information shall be kept confidential to the Authority, but the provisions of regulation 23 (2) of these regulations shall apply to any requirement of the Authority under this regulation as if that requirement were a requirement specified pursuant to regulation 22 of these regulations.

28. Authority may revoke licences—The Authority may at any time from a specified date revoke a licence if it is satisfied that—

- (a) The licensee has failed to comply with any condition attached to the licence; or
- (b) Since the issue of the licence, any person involved or likely to be involved in the exporting operations of the licensee has been convicted of an offence under these regulations or any other enactment relating to berryfruit or to exporting; or

- (c) Since the issue of the licence, there has become involved in the exporting operations of the licensee any person who—
 - (i) Has had a licence revoked, or been involved in the exporting operations of any person whose licence has been revoked; and
 - (ii) In the opinion of the Authority, is likely to have an adverse effect on the exporting operations of the licensee; or
- (d) The licensee has demonstrated that he lacks the capacity to be an effective exporter of berryfruit products.

29. Appeals—(1) If the Authority fails to grant, revokes, or fails to grant the renewal of any licence, or amends, revokes, or adds to the terms, conditions, or restrictions of any licence, the licensee may, within 28 days after receiving notice of the decision of the Authority in that respect, give written notice of appeal to the Authority setting out the grounds for appeal.

(2) On receipt of any notice of appeal the Authority shall refer its decision together with that notice to the arbitrator appointed pursuant to subclause (3) of this regulation.

(3) For the purposes of hearing any appeal against any decision of the Authority mentioned in subclause (1) of this regulation, there shall be appointed an independent arbitrator who shall be such barrister or solicitor of the High Court of at least 7 years standing as shall be nominated by the President of the New Zealand Law Society.

(4) The arbitrator shall appoint a time and place for hearing the appeal and shall give reasonable notice of the appointed time and place to the appellant and to the Authority.

(5) The arbitrator shall hear the appeal, and may affirm, reverse, or vary the decision made by the Authority or may refer the decision back to the Authority for further consideration.

(6) The decision of the arbitrator shall be notified in writing to the appellant and to the Authority and, subject to regulation 30 of these regulations, shall be final and binding upon both the appellant and the Authority.

(7) The arbitrator—

- (a) May require evidence to be given on oath, and may administer any such oath;
- (b) Shall, if requested, allow the appellant or Authority to be represented by his or its counsel, solicitor, or agent,—
and shall otherwise regulate his own procedure.

30. Appeals to High Court on question of law—(1) Where any party to any proceedings before the arbitrator is dissatisfied with any decision of the arbitrator as being erroneous in point of law, that party may appeal to the High Court on that question of law.

(2) Every such appeal shall be heard and determined by the Administrative Division of the High Court (in this regulation referred to as the Court) the decision of which shall be final.

(3) Subject to this regulation, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.

(4) Every such appeal shall be instituted by the appellant lodging a notice of appeal within one month after the date of the decision with—

- (a) The Registrar of the Court in Wellington; and
- (b) The arbitrator.

(5) Either before or immediately after the lodging of the notice of appeal, the appellant shall serve a copy of the notice of appeal, either personally or by post, on every other party to the proceedings before the arbitrator.

(6) Every notice of appeal shall specify—

- (a) The decision or the part of the decision appealed from; and
- (b) The error of law alleged by the appellant; and
- (c) The question of law to be resolved; and

(d) The grounds of the appeal, which grounds shall be specified with such reasonable particularity as to give full advice to both the Court and the other parties of the issues involved.

(7) The arbitrator shall, as soon as is practicable after receiving a copy of the notice of appeal, send a copy of the whole of the decision appealed from to the Registrar of the Court in Wellington.

(8) Any party to the proceedings before the arbitrator who wishes to appear and be heard on the hearing of the appeal shall, within 10 days after the date of the service on him of a copy of the notice of appeal pursuant to subclause (5) of this regulation, give notice to the Registrar of the Court in Wellington of that party's intention to appear and be heard.

(9) Any party who gives a notice of intention to appear and be heard and the appellant shall be parties to the appeal and shall be entitled—

(a) To be served with every document which is thereafter filed or lodged with the Registrar of the Court in Wellington and which relates to the appeal; and

(b) To receive a notice of the date set down for the hearing of the appeal.

(10) Subject to subclauses (11) and (12) of this regulation, the Court may, of its own motion or on the application of any party to the appeal, make all or any of the following orders:

(a) An order directing the arbitrator to lodge with the Registrar of the Court in Wellington any document or other written material or any exhibit in his possession or custody:

(b) An order directing the arbitrator to lodge with the Registrar a report recording, in respect of any matter or issue which the Court may specify, any findings of fact which are not set out or fully set out in his determination:

(c) An order directing the arbitrator to lodge with the Registrar a report setting out, in respect of any matter or issue which the Court may specify, any reasons or considerations of the arbitrator to which he had regard but which are not set out in his determination.

(11) An application under subclause (10) of this regulation shall be made—

(a) In the case of the appellant, within one month of the date of the lodging of the notice of appeal; or

(b) In the case of any other party to the appeal, within one month after the date of the service on him of a copy of the notice of appeal.

(12) The Court may make an order under subclause (10) of this regulation only if it is satisfied that a proper determination of the point of law in issue so requires; and the order may be made subject to such conditions as the Court thinks fit.

(13) The Court may dismiss any appeal under this regulation—

(a) If the appellant does not appear at the time appointed for the hearing of the appeal; or

(b) If the appellant does not prosecute his appeal with all due diligence and any party applies to the Court for the dismissal of the appeal.

(14) The Court or a Judge thereof may, in its or his discretion, on the application of the appellant, or intending appellant, or any other party, extend any time prescribed or allowed under any of the provisions of this regulation for the lodging of any notice, application, or other document.

(15) When any party to the appeal notifies the Registrar of the Court in Wellington—

(a) That the notice of appeal has been served on all parties to the proceedings; and

(b) That any application lodged under subclause (10) of this regulation has been heard and that any order under that subclause has been complied with,—

the appeal shall be, in all respects, ready for hearing and the Registrar shall arrange a date and place for the hearing as soon as is practicable.

PART IV

GENERAL

31. Notices—Any notice required to be given by the Authority for the purposes of these regulations shall be sufficient if it purports to be given by or on behalf of the Authority and is authenticated by an officer authorised in that behalf by the Authority.

32. Offences—Every person commits an offence against these regulations who—

(a) With intent to deceive, makes any false or misleading statement or any material omission in any declaration or other communication made to the Authority or to any other person for the purposes of these regulations; or

(b) Without lawful excuse, knowingly fails to comply with any request, requirement, obligation, or provision imposed or required to be observed by these regulations.

33. Penalties—Every person who commits an offence against these regulations shall be liable on summary conviction—

(a) In the case of an individual, to a fine not exceeding \$400;

(b) In the case of a body corporate, to a fine not exceeding \$2,000.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations establish, pursuant to the Primary Products Marketing Act 1953, a marketing authority to be called the Berryfruit Marketing Licensing Authority. The principal functions of the Authority are to issue permits to allow the export of berryfruit in special circumstances, and to prohibit the export of berryfruit except pursuant to the terms and conditions of a berryfruit exporter's licence. The term "berryfruit" means blackcurrants and boysenberries.

The Authority is also given power to raise a levy on all berryfruit grown for sale.

Many of the powers of the marketing authority are derived directly from the Primary Products Marketing Act 1953.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 4 August 1983.

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