

Serial Number 1939/42.



**THE EXPORT BUTTER-BOX POOL REGULATIONS 1938,
AMENDMENT NO. 1.**

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 19th day of
April, 1939.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Agriculture (Emergency Powers) Act, 1934, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

1. These regulations may be cited as the Export Butter-box Pool Regulations 1938, Amendment No. 1.

2. These regulations shall be read together with and form part of the Export Butter-box Pool Regulations 1938* (hereinafter called the principal regulations).

3. Regulation 2 of the principal regulations is amended by revoking clause (3) thereof, and substituting the following clauses :—

“(3) Any proprietor manufacturing butter for export beyond New Zealand and requiring export butter-boxes in which to pack such butter shall, on or before the 1st day of April in every year, notify the Board of the number of export butter-boxes which he estimates he will require for the next ensuing season, and the Board shall thereupon be at liberty to direct whether such export butter-boxes shall be supplied in shooks or nailed up, and to arrange for the supply of such export butter-boxes from licensees, or, if need be, from manufacturers outside New Zealand upon such terms as the Board thinks fit.

“(3A) On the first day of each month every proprietor shall forward to the Board a statement of the stocks of export butter-boxes which he has on hand at that date, together with an estimate of his requirements in export butter-boxes for that month and for the next succeeding month.”

* Statutory Regulations 1938, Serial number 1938/105.

4. Regulation 3 of the principal regulations is amended as follows :—

(i) By revoking paragraph (a) of clause (1) thereof, and substituting the following paragraph :—

“(a) The Director of Forestry shall ascertain on the basis of its actual cost the value of timber held in stock for the manufacture of export butter-boxes by each licensee at the commencement of the season, and, having regard to the reasonable quantity of timber which the licensee should use for the manufacture of the particular types of export butter-boxes he proposes to manufacture, the Director of Forestry shall estimate the value of the timber required by the licensee for the manufacture of each type of butter-box.”

(ii) By inserting next after the words “shall be entitled” in paragraph (c) of the said clause (1) the following words :
“at the commencement of the season”.

(iii) By revoking clause (5) thereof, and substituting the following clause :—

“(5) At any time during the season or after the close of the season the Board, in consultation with the Director of Forestry, may consider any evidence that the actual prices paid at the time of purchase by any licensee for timber to be used in the manufacture of export butter-boxes was higher or lower than the value of the timber estimated pursuant to paragraph (a) of clause 1 hereof, and may thereupon adjust accordingly the provisional price payable to that licensee, and any such adjustment may in the Board’s discretion be retrospective so as to relate to boxes already delivered and paid for.”

5. Regulation 4 of the principal regulations is revoked, and the following regulation substituted :—

“REGULATION 4.—PRICES TO PROPRIETORS OF MANUFACTURING
DAIRIES.

“(1) Proprietors shall pay to the Board for export butter-boxes supplied under these regulations a provisional delivered price ; for the purposes of this clause when delivery is made by rail or sea it shall be deemed to be completed when the boxes are delivered to the wharf or railway-station, whichever is nearest the dairy factory to which the export butter-boxes are supplied.

“(2) The provisional delivered price shall be arrived at as follows :—

“(a) The Board shall estimate at the beginning of each season the average price at which export butter-boxes are obtainable by the Board during the season from licensees, allowing a reserve for the purpose of meeting any adjustment that may subsequently be made in prices payable to licensees :

“(b) The Board shall, in respect of each type of export butter-box, fix from time to time what it considers to be fair and reasonable charges for packing butter in export butter-boxes of that type and for assembling and closing export butter-boxes of that type :

“(c) The Board shall estimate at the commencement of each season the average cost of transport of export butter-boxes between box-factory or store and point of delivery to the proprietors of manufacturing dairies, and shall provisionally apportion this cost as it thinks fit over the different types of export butter-boxes delivered to such proprietors, and may for the purposes of such apportionment treat box boards delivered in shooks as if they were a different type of export butter-box :

“(d) The Board shall estimate the cost for the season to the Board of acting as the agent of the proprietors and carrying out the powers and duties conferred and imposed on the Board by these regulations, including such portion or proportion of the overhead expenses of the Board’s office as may be fixed by the Board and the reasonable expenses (the amount of which shall be fixed by the Minister concerned in consultation with the Board) incurred by any Minister of the Crown on behalf of the Board or by reason of any duty imposed on such Minister by these regulations :

“(e) Taking into account the price charges and cost referred to in paragraphs (a), (b), (c), and (d) hereof, the Board shall from time to time notify a provisional delivered price for each type of export butter-box :

“ Provided that any such provisional price may from time to time be modified by the Board if in its opinion any change of circumstances makes it proper that a modification should be made.

“(3) If by reason of the default of any proprietor or by reason of the means of transport of butter adopted by any proprietor the Board is required to pay additional freight rates in respect of the delivery by rail of export butter-boxes to such proprietor or is unable to take advantage of any minimum railway freight rates for butter-boxes, the Board may in its discretion decide that an additional payment of such sum as the Board thinks proper shall be made by such proprietor in respect of the export butter-boxes on which the additional freight rates were incurred or in respect of which a freight rate in excess of the minimum was payable.

“(4) Invoices for export butter-boxes supplied to any proprietor by a licensee or by the Board in any month shall be rendered to such proprietor by the Board as delivery notes are received by the Board from the licensee, and a monthly statement shall be rendered by the Board to such proprietor within seven days after the end of that month or so soon thereafter as practicable, and the amount shown as owing in such statement shall be due and payable by such proprietor to the Board on the 15th day of the month in which the statement is rendered.

“(5) If any proprietor fails to pay to the Board the full amount of any account for export butter-boxes supplied through the Board on the due date of payment, then—

- “(a) The Board may notify the Director of the amount due by the proprietor, and thereupon the Director shall be entitled, without further authority than this regulation, to deduct the amount owing from any moneys that are then payable or may subsequently to the receipt of such notice become payable to the proprietor out of the Dairy Industry Account and to pay the same to the Board, whose receipt shall be sufficient discharge for the same; and
- “(b) The Board may recover the amount due as a debt in any Court of competent jurisdiction; and
- “(c) The Board may decline to permit the supply of any export butter-boxes to the proprietor in default so long as such default continues.
- “(6) Forthwith after the end of every season the Board shall ascertain the outlay made and incurred by the Board and properly referable to the accounts of that season in respect of the following matters:—

“(a) The purchase of export butter-boxes from licensees and manufacturers outside New Zealand (including any adjustment relating to the price of timber) and the supply of export butter-boxes to proprietors.

“(b) The expenses incurred by the Board in carrying out the powers and duties conferred and imposed on the Board by these regulations, including such portion or proportion of the overhead expenses of the Board's office as may be fixed by the Board, and the reasonable expenses (the amount of which shall be fixed by the Minister concerned in consultation with the Board) incurred by any Minister of the Crown on behalf of the Board or by reason of anything to be done by a Minister under these regulations.

“(7) Thereupon the Board shall fix and notify such final prices to be payable by proprietors to the Board for export butter-boxes of each respective type as will recoup the outlay aforesaid.

“(8) If a final price be less than the provisional price, the Board shall forthwith at its discretion either make a refund of the difference to any proprietor affected or credit the amount thereof to the current account of such proprietor in the books of the Board.

“(9) If a final price exceeds the provisional price, every proprietor affected shall pay the excess to the Board within thirty days after demand by the Board in that behalf giving particulars of the amount demanded.

“(10) If any proprietor fails to pay to the Board the full amount of any such demand within the time aforesaid the provisions of clause (5) of this regulation shall apply.”

6. Regulation 5 of the principal regulations is amended by adding, next after clause (4) thereof, the following additional clause:—

“(5) The Board may from time to time require any proprietor to maintain such stocks of export butter-boxes as the Board shall consider necessary in the interests of the individual proprietor and for the welfare of the dairy industry, and may from time to time require any

proprietor to alter or increase the space available for the storage of his boxes if in the opinion of the Board such storage space is either unsatisfactory or inadequate for the number of boxes which the Board considers should be held by the proprietor."

7. Regulation 6 of the principal regulations is amended by adding, next after clause (12) thereof, the following additional clause :—

"(12A) (i) It shall be lawful for the Board to require that every licensee shall maintain moisture-testing equipment approved by the Board for the purpose of carrying out regular tests at the times and in the manner from time to time prescribed by the Board to determine the moisture content of the timber used by such licensee in the manufacture of export butter-boxes.

"(ii) Every licensee who is required to maintain a moisture-testing equipment pursuant to this clause shall keep a special book in which shall be recorded the results of the tests made by him from time to time to determine the moisture content of timber used in the manufacture of export butter-boxes, and such book shall be open at all times for inspection by any officer of the Board or any person duly authorized in that behalf by the Board.

"(iii) Notwithstanding the foregoing provisions of this clause, the Board shall be at liberty to carry out tests at any time for the purpose of determining the moisture content of any timber used by any licensee in the manufacture of export butter-boxes."

8. Regulation 6 of the principal regulations is further amended by revoking from clause (13) thereof the words "the last preceding clause of this regulation", and substituting the following words: "any of the provisions of clauses (12) and (12A) of this regulation".

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 20th day of April, 1939.

These regulations are administered by the Department of Agriculture.

(Notice No. Ag. 3651.)