

Serial Number **136/1937.****THE COOK ISLANDS FRUIT CONTROL REGULATIONS, 1937.**

Enacting authority : His Excellency the Governor-General in Council.
Act pursuant to which the regulations were made : The Cook Islands
Act, 1915.

Date on which the regulations were made : 18th day of February, 1937.

Date of notification in *Gazette* : 18th day of March, 1937.

REGULATIONS.

REGULATION I.—PRELIMINARY.

(1) (a) These regulations may be cited as the Cook Islands Fruit Control Regulations, 1937.

(b) These regulations shall come into force on the 18th day of February, 1937.

(c) These regulations shall have no application in the Island of Niue.

(2) The Cook Islands Fruit Regulations, 1928,* shall be read subject to these regulations.

(3) (a) In these regulations, unless inconsistent with the context.—
“ Minister ” means the Minister ~~for the Cook Islands~~ and includes the delegate of the Minister under these regulations :

“ Secretary ” means the Secretary for the Cook Islands :

“ Resident Commissioner ” means the Resident Commissioner of Rarotonga :

“ Director of Agriculture ” means the Director of Agriculture for the Cook Islands :

“ Committee ” means the Advisory Committee constituted under these regulations :

“ Fruit ” means citrus fruit, bananas, ~~and tomatoes~~, and the product or products thereof :

“ Producer ” means any person who grows fruit for export :

“ Registered grower ” means any producer to whom a registered number has been allotted pursuant to Part VIII of the Cook Islands Fruit Regulations, 1928.

(b) In these regulations terms defined by the Cook Islands Fruit Regulations, 1928, shall have the meanings thereby assigned to them except where another meaning is assigned by these regulations.

* *Gazette*, 19th July, 1928, Vol. II, page 2231.

REGULATION 2.—CONTROL OF FRUIT.

(1) The Minister is hereby empowered to assume from time to time control of the whole or any portion of the fruit produced in the Cook Islands and intended for export from the Cook Islands.

(2) Notice by the Minister of his assumption of control of any fruit and the date upon which control will be assumed shall be given in the Cook Islands in such manner as the Minister deems sufficient.

(3) The Minister may delegate to the Secretary all or any of the powers and authorities which may be exercised by him in New Zealand under these regulations.

(4) The Minister may delegate to the Resident Commissioner all such power and authority as may be exercised in the Cook Islands under these regulations.

(5) The exercise by the Secretary or the Resident Commissioner of any power or authority so delegated to him shall be of the same force and validity as if such power or authority were exercised by the Minister himself.

(6) The fruit trade of the Cook Islands shall be deemed to be a public purpose within the meaning of section 364 of the Cook Islands Act, 1915.

(7) After the coming into force of these regulations no person shall make or be a party to or enter into either as principal or agent any contract to which the Minister is not a party or to which the Minister's written consent is not given of the kinds following, namely:—

(a) For export of fruit from the Cook Islands:

(b) For the carriage of fruit by sea from the Cook Islands to any place outside the Cook Islands:

(c) For the carriage of fruit by sea from any part of the Cook Islands to any other part of the Cook Islands prior to export from the Cook Islands:

(d) For sale or other disposal of fruit—

if such contract relates—

(i) To fruit the control of which has been assumed by the Minister whether or not the fruit be in existence when the contract is made; or

(ii) To export, carriage, sale, or other disposal at any time on or after the 1st day of April, 1937, of fruit subject to the control of the Minister whether or not the fruit be in existence when the contract is made.

(8) Any contract made in breach of this regulation shall be void, and any contract which by reason of assumption of control after the contract is made relates at any time during its continuance to fruit the control of which has been assumed by the Minister or to the export, carriage, sale, or other disposal of fruit the control of which has been assumed by the Minister shall so far as it so relates become void and be unenforceable.

REGULATION 3.—ADVISORY COMMITTEE.

(1) There is hereby established an Advisory Committee to be called "The Cook Islands Fruit Advisory Committee".

(2) The Committee shall consist of the following official members, namely:—

(a) The Resident Commissioner for the time being (*ex officio*):

(b) The Director of Agriculture for the time being (*ex officio*)— and the following elected members who shall be elected in manner hereinafter provided, namely :—

(c) One Maori who shall be a registered grower and who shall be elected by the Maori registered growers of the District of Avarua :

(d) One Maori who shall be a registered grower and who shall be elected by the Maori registered growers of the District of Takitumu :

(e) One Maori who shall be a registered grower and who shall be elected by the Maori registered growers of the District of Arorangi :

(f) One European who shall be a registered grower and who shall be elected by the European registered growers.

(3) Every elected member shall come into office on the date on which the Returning Officer declares that he has been duly elected, and unless his office sooner becomes vacant shall continue in office until declaration of election of his successor.

(4) The office of an elected member shall become vacant—

(a) If he tenders his resignation in writing to the Resident Commissioner :

(b) If on the recommendation of the Committee he is removed from office by notice in writing by the Minister :

(c) On his death.

(5) The powers of the Committee shall be exercisable as soon as the first elected members have come into office and shall not thereafter be affected by any vacancy in the membership thereof or any defect in the appointment of any member thereof.

(6) The function of the Committee shall be to advise the Resident Commissioner in regard to the due carrying out of the provisions of these regulations and the Cook Islands Fruit Regulations, 1928, and their amendments in order to promote the best interests of producers.

REGULATION 4.—MEETINGS OF COMMITTEE.

(1) Meetings of the Committee shall be held at such times as the Committee with the approval of the Resident Commissioner may from time to time appoint : Provided that such meetings shall be held at intervals not exceeding three months.

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

(3) Save as provided herein, the Committee shall determine its own procedure.

(4) Members of the Committee not being members of the Cook Islands Public Service shall be paid such allowances and travelling-expenses reasonably incurred by them in respect of attendance at meetings of the Committee as the Minister may determine.

REGULATION 5.—POWERS OF MINISTER.

(1) The Minister may from time to time allocate the maximum quantities of the different species of fruit that any planter, district, or island shall be permitted to supply for export in any particular shipment or season.

(2) The Minister may from time to time fix prices below which any species of fruit for export shall not be sold or purchased in the Cook Islands.

(3) In respect of all fruit intended for export, of which the Minister has assumed control, the Minister may in the Cook Islands or elsewhere—

- (a) Take delivery of, grade, pack, handle, and store such fruit :
- (b) Ship such fruit on such terms and in such quantities as he thinks fit :
- (c) Sell and grant options for the sale of or otherwise dispose of such fruit in such manner and upon such terms as to price, payment, delivery, transport, rejection, and other matters as he thinks fit :
- (d) Insure such fruit against any insurable risk :
- (e) Destroy such fruit :
- (f) Generally do all such things as in his opinion are necessary for, or incidental to, the due discharge of his functions in handling, distributing, and disposing of fruit or otherwise in exercising control over fruit as fully as an absolute owner of fruit might do.

(4) Nevertheless, as between the owner subject to the Minister's control on the one part and the Minister on the other part, the Minister shall be deemed to be the agent of the owner so that the mutual rights, obligations, and liabilities of the Minister and the owner shall be determined in accordance with the law governing the relations between principals and agents; save that nothing herein contained shall be construed to limit the right of the Minister to exercise without the authority of the owner of any such fruit any power with respect to such fruit expressly or by implication conferred on the Minister by or by virtue of these regulations.

(5) For the purposes of these regulations and in order to provide cool stores, packing-sheds, offices, stores, or buildings of any kind, the Minister may, on behalf and in the name of His Majesty and on such terms and conditions as the Minister may determine, acquire the freehold or leasehold of any land, or land and buildings, and the same may from time to time be disposed of permanently or for a term of years in manner prescribed by section 355 of the Cook Islands Act, 1915.

(6) The Minister may also acquire fruit-cases, shooks, machinery, plant, and other personal property of any kind whatever.

(7) The Minister may at his discretion advance to any grower to whom moneys by way of distribution under these regulations are contingently payable any sum not exceeding the amount estimated to be so payable.

(8) To enable any grower to establish, properly cultivate, renovate, or extend a plantation the Minister may at his discretion make provision to advance to such grower—

- (i) Trees, plants, and seeds ;
- (ii) Manures, spraying-material, and spraying-implements ;
- (iii) Implements, tools, and fencing-materials necessary for plantation work ;
- (iv) Food supplies ; and
- (v) Money.

(9) Every such advance shall be used from time to time and in such manner and for such purpose as the Resident Commissioner shall approve, and shall be granted and expended under his direct supervision in order to ensure that the purpose for which the advance has been granted will be achieved to the best advantage of such grower.

(10) Every such advance shall be made upon such terms and conditions as to repayment as the Minister may determine.

(11) In the exercise of his powers the Minister may in the Cook Islands and in New Zealand act by the officers of the Cook Islands Public Service or by the officers of the Cook Islands Department or by contractors, consignees, attorneys, or other agents, and may accordingly enter into contracts and appoint agents on such terms and conditions as he may determine for the carrying-out of his functions.

(12) The powers conferred by this regulation (except those set out in clauses (3) and (4) hereof) and by Regulation 7 hereof may be exercised notwithstanding that control over fruit has not been assumed or is not for the time being exercised.

REGULATION 6.—APPLICATION OF FUNDS.

All moneys received by the Minister by way of levy or in respect of the sale of fruit or otherwise howsoever shall be applied as follows :—

- (a) In payment of the expenses, commissions, and other charges and claims in respect of the carrying-out of these regulations :
- (b) In payment for services rendered by the Cook Islands Public Service, the Cook Islands Department, the Controller and Auditor - General, and any other Department of the Government :
- (c) In payment of the salaries, wages, travelling expenses and allowances, and remuneration of any kind whatever due to officers, servants, and agents of the Minister :

Provided that travelling allowances and expenses shall be at the rate allowable to officers and servants of the Cook Islands Department for the time being or at any other rate that may from time to time be determined by the Minister :

- (d) In payment of purchase-money and rent for land and buildings acquired or occupied for the purpose of these regulations and purchase-money for fruit-cases, shooks, machinery, plant, and other personal property acquired for the purpose of these regulations :
- (e) In the erection, acquisition, maintenance, enlargement, or improvement of cool stores, packing-sheds, and equipment for the same whether such buildings or equipment be the property of the Minister or of any other person or persons and so that the Minister may expend money for the purposes of this clause or may make grants to any person for the purposes aforesaid without being concerned to see to the application or be responsible for the misapplication or non-application of money so granted :

- (f) In distribution to the owners of fruit disposed of in such sums or proportions as the Minister thinks equitable having regard to the nature, quality, quantity, and season of delivery of the fruit disposed of, the amount realized on disposal, and the costs and charges involved in realization :
- (g) In making advances to producers on account of fruit exported and in making advances to producers of money and personal property as provided by clauses (7) and (8) of Regulation 5 hereof :
- (h) In establishment of the Reserve Fund referred to in Regulation 8 hereof :
- (j) In payment of all other moneys for which the Minister is liable in the carrying-out of the provisions of these regulations.

REGULATION 7.—LEVY ON FRUIT.

(1) The Minister may from time to time for the purpose of providing funds for any of the purposes of these regulations impose a levy of such sum as he may think fit on all fruit which is exported. Such levy shall not exceed the following amounts :—

Citrus fruit	..	..	..	Is. a case.
Bananas	..	..	..	Is. a case.
Tomatoes	..	..	..	6d. a box.

(2) Public notice as directed by the Resident Commissioner shall be given of all levies imposed from time to time under this provision.

(3) The Minister may deduct from any sum payable to any grower under these regulations all amounts due in respect of any levies under this regulation.

REGULATION 8.—RESERVE FUND.

(1) The Minister may withhold from distribution for the purposes of establishing a Reserve Fund such sum as from time to time in his discretion he thinks fit, but not exceeding 2d. per case in respect of every case or box of fruit which is exported.

(2) The Reserve Fund is set aside only for the purposes of these regulations, and it shall be invested on fixed deposit at any bank in New Zealand or in public securities in New Zealand as the Minister from time to time directs, and such securities may at any time be realized by the Minister.

(3) The Reserve Fund shall be available for any of the purposes of these regulations for which money may be expended by the Minister and may be applied for equalization of payments to growers of fruit in mitigation of fluctuations of market prices.

REGULATION 9.—ACCOUNTS.

(1) Proper and complete accounts shall be kept by the Minister of all operations and of all fruit received and all moneys received and expended for the purposes of these regulations.

(2) Such moneys and accounts shall be subject to audit in the same manner in all respects as if such moneys were public moneys within the meaning of the Public Revenues Act, 1926, at such times as the accounts of the Cook Islands Treasury are audited as provided by law.

(3) A summary of the accounts for the preceding twelve months or from the date of the last audit, duly audited and set forth in such form as the Controller and Auditor-General may require, shall be published by the Minister within three months after the date of such audit.

(4) The Treasurer at Rarotonga shall keep an account of the proceeds of any levy imposed under these regulations and the proceeds of the sale of fruit, and all such proceeds shall be deposited either in a separate account at the Reserve Bank at Wellington, to be distinguished as the "Cook Islands Fruit Account", or with the Treasurer at Rarotonga. All moneys paid to the Treasurer at Rarotonga shall be kept in a separate account to be known as the "Cook Islands Fruit Account".

(5) The Treasurer shall keep a separate account in the name of each producer in Rarotonga wherein shall be shown all credits and debits in each producer's account.

(6) In respect of Aitutaki, Mauke, Atiu, Mangaia, and Mitiaro, the Treasurer shall keep a separate sub-account in the name of the Resident Agent of each Island respectively wherein shall be shown all credits and debits of each Island fruit account.

(7) In respect of each of the Islands of Aitutaki, Mauke, Atiu, Mangaia, and Mitiaro, the Resident Agent of each respective Island shall keep a separate account in respect of each producer wherein shall be shown all credits and debits in each producer's account.

(8) Moneys shall be withdrawn from the Cook Islands Fruit Account at the Reserve Bank of New Zealand only by cheque crossed "not negotiable" and signed by the Accountant, Cook Islands Department, or other officer appointed by the Secretary for the Cook Islands to act in that capacity for the purposes of these regulations, and countersigned by the Secretary for the Cook Islands.

(9) Moneys shall be withdrawn from the Cook Islands Fruit Account with the Rarotongan Treasury only by cheque crossed "not negotiable" and signed by the Treasurer of the Cook Islands Administration and countersigned by the Resident Commissioner.

REGULATION 10.—ELECTION OF ADVISORY COMMITTEE.

(1) For the purpose of electing members of the Fruit Advisory Committee the following provisions shall apply:—

(a) The Registrar of Courts for the time being shall be the Registrar of Electors and the Returning Officer:

(b) Every Maori registered grower of the districts of Avarua, Takitumu, and Arorangi respectively shall be entitled to one vote in respect of the member of the Advisory Committee to represent that district:

(c) Every European registered grower shall be entitled to one vote for the European member of the Committee.

(2) The Registrar of Electors shall, as soon as practicable, prepare—

(i) A separate roll of the Maori registered growers entitled to vote at the election of the Maori member representing the districts of Avarua, Takitumu, and Arorangi respectively:

(ii) A roll of European registered growers entitled to vote at the election of the European member of the Committee.

(3) The Registrar of Electors shall, save when the rolls are closed for the purposes of an election, alter the same from time to time by the addition of the names of new electors and by the erasure of the names of persons who have ceased to be qualified as electors.

(4) The roll of electors shall be closed for one clear day before the date of any election under these regulations, and shall continue closed until the declaration of the Returning Officer of the result of the election.

(5) Application for enrolment as an elector shall be in writing signed by the applicant in the form No. 1 in the Schedule hereto.

(6) The Returning Officer shall give not less than seven days' public notice of the time and place of the election. Such notice shall be given in such manner as the Returning Officer thinks sufficient.

(7) Any two or more electors may at any time after the publication of the notice of the election, but not later than three clear days before the day fixed for the election, nominate a candidate for election by notice in writing in the form No. 2 in the Schedule hereto, delivered to the Returning Officer. The nomination of a candidate shall be of no effect unless the consent of the candidate appears on the nomination form.

(8) As soon as practicable after the expiry of the time allowed for nominations the Returning Officer shall give public notice, in such manner as he thinks sufficient, of the names and descriptions of the persons nominated.

(9) If only one candidate is nominated for any seat the Returning Officer shall by public notice declare that candidate to be duly elected as a member of the Council.

(10) If two or more candidates are duly nominated a poll shall be taken on the day and at the place fixed for the election.

(11) The Returning Officer shall make all necessary and proper arrangements for—

(a) The provision of ballot-papers :

(b) The appointment of polling-places, and of Deputy Returning Officers, and poll-clerks :

(c) The appointment of not more than one scrutineer at each polling-place for each candidate. The scrutineers so appointed shall be entitled to be present at the poll and at the counting of the votes.

(12) The Returning Officer shall define the duties of the Deputy Returning Officers and poll-clerks. The Returning Officer, Deputy Returning Officer, and poll-clerks shall take all proper precautions to preserve the secrecy of the ballot.

(13) After the completion of the ballot the Returning Officer, in the presence of the scrutineers (if any), but of no other persons, shall count the votes recorded for each candidate, and shall by public notice given in such manner as he thinks sufficient declare the candidate who has received the highest number of valid votes to be elected.

(14) If two or more candidates receive an equal number of votes the Returning Officer shall, if necessary, determine by lot which of those candidates shall be deemed to have been elected.

(15) The declaration of the Returning Officer that any candidate has been duly elected shall be final.

(16) The first election under these regulations shall be held on the 7th day of July, 1937. Subsequent general elections shall be held on the first Wednesday in July in every second year thereafter.

(17) In the event of any member vacating his office, whether by death or otherwise, before the expiry of the term for which he was elected a by-election shall be held on a day to be fixed by the Resident Commissioner being not more than three weeks after the vacancy has arisen, and the foregoing provisions shall apply in the same manner as to a general election :

Provided that if a vacancy occurs at any time within six months before the date of the biennial election the Resident Commissioner at his discretion may appoint a qualified person to hold office until the election.

(18) Any registered grower shall be entitled to have his name placed on the roll of electors for his respective district on satisfying the Returning Officer—

(a) That he has attained the age of eighteen years :

(b) That he has, in the preceding twelve months up to date of closing of roll, produced for export on his own plantation at least twenty-four cases or boxes of fruit.

REGULATION 11.—PENALTIES.

(1) Any person making or becoming a party to or entering either as principal or agent into any contract in breach of these regulations or acting under or seeking to carry out or enforce any contract declared by these regulations to be unenforceable commits an offence and shall be liable on summary conviction to a fine not exceeding £50.

(2) Any person who obstructs or impedes or attempts to obstruct or impede the Minister or any officer of the Cook Islands Public Service or of the Cook Islands Department or any agent of the Minister in exercising any of the functions, powers, authorities, or duties vested in or conferred by or under these regulations commits an offence and shall be liable on summary conviction to a fine not exceeding £50.

SCHEDULE.

[Form No. 1.

APPLICATION FOR ENROLMENT OF ELECTOR.

To the Registrar of Electors at Rarotonga.

I, [*Name and description of applicant*], hereby apply to be enrolled as an elector for the purposes of the election of (.....) member of the Fruit Advisory Committee (for the District of).

I hereby declare that—

1. I have attained the age of eighteen years.
2. I am a registered grower of the District of, identified for this purpose as Registered Grower No. ...
3. In the preceding twelve months up to date of closing of roll I have produced for export on my own plantation at least twenty-four cases or boxes of fruit.

Signature of applicant :

[Form No. 2.]

NOMINATION FOR CANDIDATES FOR ELECTION OF MEMBERS OF THE FRUIT
ADVISORY COMMITTEE.

WE, [*Names and descriptions of two or more electors*], being duly enrolled as electors for the election of members of the Fruit Advisory Committee, hereby nominate

[*Name and description of candidate*]

as a candidate for the election of a (.....) member of the Fruit Advisory Committee (for the District of

Dated at this day of, 19..

Signatures of nominees :

Consent of Candidate.

I, [*Name and description of candidate*], hereby consent to my nomination as a candidate for election as (.....) member of the Fruit Advisory Committee (for the District of

I declare that I am not disqualified from being elected or from holding office as such member.

Dated at this day of, 19..

Signature of candidate :

Issued under the authority of the Regulations Act, 1936.
These regulations are administered by the Cook Islands Department.