

Serial Number 1940/79.



**THE CHRISTCHURCH MILK DELIVERY EMERGENCY
REGULATIONS 1940.**

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 1st day of May, 1940.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS.

PRELIMINARY.

1. These regulations may be cited as the Christchurch Milk Delivery Emergency Regulations 1940.
2. These regulations shall come into force on the day of notification in the *Gazette* of the making hereof.*
3. In these regulations, unless inconsistent with the context,—
 - “ Board ” means the Christchurch Milk Delivery Board constituted under these regulations :
 - “ Controller ” means the Oil Fuel Controller appointed in terms of the Oil Fuel Emergency Regulations 1939 † :
 - “ Dairyman ” means the occupier of any dairy or dairy premises within the milk district or the milk from which is delivered into the milk district :
 - “ Delivery ” includes supply, and “ to deliver ” has a corresponding meaning :
 - “ Deposit Account ” means the Deposit Account created by these regulations :
 - “ Levy ” means any levy imposed under the authority of these regulations :
 - “ Member ” means a member of the Christchurch Milk Delivery Board appointed in terms of these regulations :
 - “ Milk district ” means the Christchurch Milk Delivery District constituted under these regulations :
 - “ Milk ” includes cream :
 - “ Milk-vendor ” means any person who in the milk district delivers milk otherwise than by sale over the counter :
 - “ Minister ” means the Minister of Supply.

* See end note.

† Statutory Regulations 1939, Serial number 1939/133, page 612.

4. These regulations shall not apply to—
- (a) Milk or cream intended for manufacture into butter, cheese, or casein ; or
 - (b) Milk or cream which is outside the milk district and is not intended to be supplied to or sent or brought into the district ; or
 - (c) Dried milk, condensed milk, or condensed cream.
5. These regulations shall continue in force until revoked or until the repeal of the Emergency Regulations Act, 1939, or until twelve months after the termination of the present war between His Majesty and the Government of the German Reich, whichever date be the earlier.

CHRISTCHURCH MILK DELIVERY DISTRICT.

6. The area of the Christchurch Transport District as now constituted in terms of the Transport Licensing Act, 1931, shall for the purposes of these regulations constitute the Christchurch Milk Delivery District.

CHRISTCHURCH MILK DELIVERY BOARD.

7. There shall be for the milk district a Board constituted, as hereinafter provided, under the name of "The Christchurch Milk Delivery Board."

8. For the purposes of any exercise of the powers of the Board the provisions of the Commissions of Inquiry Act, 1908, shall, so far as they are applicable, apply as if the Board were a Commission of inquiry appointed under that Act.

9. (1) The Board shall consist of six members as follows:—

(a) The person for the time being holding the office of the Mayor of Christchurch :

Provided that at any meeting of the Board at which the Mayor is not present the person for the time being holding appointment as Deputy Mayor shall be entitled to attend and act as a member (but not as Chairman, unless so chosen) of the Board in the place of the Mayor :

(b) The person for the time being holding the office of the District Licensing Authority appointed in terms of the Transport Licensing Act, 1931, for the transport district adjoining the milk district, and if such Licensing Authority consists of more than one person, the Chairman thereof :

(c) Two members appointed by the Minister to represent the milk-vendors and dairymen, after consultation by the Minister with such persons or bodies as he thinks fit :

(d) One member appointed by the Minister from the members of the Christchurch City Council, after consultation by the Minister with the City Council :

(e) One member appointed by the Minister from members of the local authorities who are members of the Christchurch Suburban Local Bodies' Association, after consultation by the Minister with the Association.

(2) No person having any pecuniary interest in the production, treatment, distribution, or sale of milk otherwise than as a domestic consumer shall be eligible for appointment under paragraphs (d) and (e) of the last preceding clause.

(3) Any person appointed in terms of paragraphs (c), (d), and (e) of clause (1) of this regulation may resign his office by writing under his hand addressed to the Minister, or may be removed from office by notice addressed to him under the hand of the Minister, and in such case, or in case of his death, his office shall become vacant, and shall be filled by appointment by the Minister after following the same procedure as in making the original appointment.

10. No member of the Board if acting *bona fide* shall be personally liable for any default of the Board or any act of the Board when such default or act occurs in the course of the operations of the Board, and no officer of the Board if acting *bona fide* shall be personally liable for any default in the course of his authorized duties.

PROCEEDINGS OF BOARD.

11. At every meeting of the Board, the Mayor of Christchurch, if present, or in his absence the person appointed in terms of paragraph (b) of clause (1) of Regulation 9 hereof, shall be Chairman, and if neither of them be present the members of the Board then present shall choose a Chairman for that meeting.

12. Any decision of the Board under these regulations shall be effected by means of a resolution passed at a meeting called as hereinafter provided and concurred in by a majority vote of members then present and forming a quorum. In the event of the votes on any resolution being even, the Chairman shall have a casting vote.

13. A quorum of the Board shall consist of three members.

14. No act or proceeding of the Board, or of any person acting as a member of the Board, shall be invalidated in consequence of there being a vacancy in the Board at the time of such act or proceeding, or of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he was incapable of being such member.

15. The Board shall hold its meetings at such times and at such places as it from time to time appoints, save that the first meeting shall be held within fourteen days of the date of its appointment and shall be convened by the Mayor of Christchurch.

16. If no quorum is present within half an hour of the time fixed for the holding of any meeting, the same shall stand adjourned from day to day at the same time and place until a quorum is assembled.

17. The Board may, subject to the provisions of these regulations, make rules,—

(a) For the notification to members of time and place of meetings, for the conduct of meetings, for the recording of its decisions, and generally for regulating its procedure in any respect not expressly provided for by these regulations :

- (b) Providing for the payment to members of such allowances, not exceeding two guineas per meeting for the Chairman and one guinea per meeting for other members, as are fixed by the Board and approved by the Minister :
- (c) Concerning anything incidental to the provisions and purposes of these regulations and not herein provided for.

18. Any public notification given by the Board shall be sufficient if purporting to be by order of the Board and if verified by the name appended thereto of a person purporting to be the Secretary of the Board, and any license, notice, or other document issued by the Board shall be sufficient if purporting to be by order of the Board and to be signed by a person as Secretary of the Board.

19. A copy of any resolution or decision of the Board certified by the Chairman of the Board to be correct shall, until the contrary is proved, be sufficient evidence of such resolution or decision in any proceedings under these regulations.

20. A certificate signed by the Chairman of the Board to the effect that any person required to be licensed under these regulations was at the date of the certificate so licensed or not so licensed shall, until the contrary is proved, be sufficient evidence of the matters stated therein.

FINANCIAL AND GENERAL PROVISIONS.

21. The Transport Department shall provide such accommodation, officers, including a Secretary, and other assistance, service, and facilities as may be necessary for carrying on the business of the Board.

22. There shall be a Deposit Account under the Public Revenues Act, 1926, to be called "the Deposit Account of the Christchurch Milk Delivery Board."

23. All moneys payable by way of levy or fine or otherwise under these regulations shall, when received by the Board or a Clerk of the Court or any other person, be paid to the Receiver for the time being of the Deposit Account, and all such moneys other than fines may, by the person liable for payment, be lodged to the credit of the Public Account at the Reserve Bank of New Zealand or any branch of the Bank of New Zealand.

24. The moneys in the Deposit Account shall be available for meeting the expenses incurred in carrying on the business of the Board, including payments to members as aforesaid.

25. The expenses involved in assistance, service, and facilities rendered by the Transport Department shall be assessed, and the amount thereof certified from time to time by the Minister of Transport.

LEVY.

26. For the purpose of meeting the expenses incurred in carrying on the business of the Board, including payments to members as aforesaid, there shall be a levy on all milk-vendors as hereinafter provided.

27. The Board shall have power from time to time to impose a levy on all milk sold within the milk district by milk-vendors, and such levy may from time to time in like manner be increased or reduced :

Provided that every increase or reduction shall take effect on the first day of some calendar month to be specified in the Board's resolution.

28. Notice of the amount of the levy or of any increase or reduction therein and of the date when the levy or the increase or reduction therein shall take effect shall be published by the Board prior to such date at least once in some newspaper circulating within the milk district.

29. The levy shall be fixed as a rate payable in respect of each gallon of milk sold as aforesaid and shall not exceed the rate of $\frac{1}{10}$ d. a gallon.

30. For the purpose of assessment of levy, a sale of any quantity of cream shall be deemed to be a sale of twelve times that quantity of milk.

31. The amount of the levy imposed in respect of milk sold in every calendar month shall be due and payable on the fourteenth day of the next succeeding month.

32. Every milk-vendor who fails to make any payment of levy within seven days after the due date thereof may, in the discretion of the Board, be required to make an additional payment of 10 per cent. of the sum due and unpaid, and such additional payment shall become due and payable or be deemed to have become due and payable on the eighth day following the due date for the payment of levy in respect of which it is imposed.

33. The decision of the Board to impose the said additional payment of 10 per cent. may apply generally or to a particular case or class of cases and may apply to any sums already due and unpaid at the date of the resolution, and may by like resolution be rescinded either generally or in respect of a particular case or class of cases.

34. Every payment of levy and every additional payment may at any time after the due date thereof be recovered as a debt due to the Board in any Court of competent jurisdiction by the Secretary of the Board for the time being or any officer of the Transport Department authorized by the Minister in writing in that behalf suing (in either case) on behalf of the Board.

35. Where milk is or may be the subject of more than one sale, the Board may determine that the levy shall be payable in respect of one sale only, and where it has so determined shall determine also in respect of which sale the levy shall be payable, and any such determination as aforesaid may be of general application or apply only to a particular case or class of cases, and shall in every case be revocable at the pleasure of the Board, but so that the revocation shall not be retrospective.

RETURNS.

36. Every milk-vendor shall within fourteen days after the end of each calendar month deliver to the Board a return in the form prescribed by the Board setting forth the quantity of milk sold by him during that month and such other particulars (whether of a like nature or not to the particulars specified in this regulation) as may be from time to time required by the Board. The return shall, if so required by the Board, be verified by statutory declaration.

37. If any milk-vendor fails to deliver to the Board any return required under these regulations within the time hereinbefore provided in that behalf, or delivers a return which in the opinion of the Board

does not show the quantity of milk actually sold by him, the Board may make and notify to the milk-vendor an assessment of the quantity of milk upon which, in its opinion, such milk-vendor ought to pay the levy, and the quantity so assessed shall be deemed to be the correct quantity upon which the levy is payable by such milk-vendor, save in so far as he satisfies the Board or establishes in any action taken by the Board to recover the levy that the assessment is excessive.

FUNCTIONS AND POWERS OF BOARD IN RELATION TO DELIVERY OF MILK.

38. The principal function of the Board shall be to regulate the delivery of milk within the milk district so as to reduce, so far as may be desirable in the public interest, the amount of oil fuel used for such delivery.

39. In pursuance of the principal function of the Board set out in the last preceding regulation, the Board—

- (a) May arrange for meetings and consultations of milk-vendors and dairymen in order that they may submit to the Board schemes for the purpose of enabling the Board to carry out its principal function :
- (b) May approve any scheme or schemes so submitted :
- (c) If no scheme submitted in terms of paragraph (a) hereof is to the satisfaction of the Board, may itself take such steps as it deems necessary to carry out its principal function, and in particular may amend or modify any schemes submitted to it as hereinbefore provided or may itself initiate any scheme or schemes.

40. For the purpose of enabling the Board better to carry out its functions as described in the two last preceding regulations, the Board may from time to time—

- (a) Recommend the Controller to refuse, restrict, or increase the supply of oil fuel to any milk-vendor :
- (b) Provide that on and after such date as may be fixed by the Board for the purpose and publicly notified it shall not be lawful for any person, whether as principal, agent, or otherwise, and whether by motor-vehicle or otherwise,—
 - (i) To deliver milk in the milk district in pursuance of a contract of sale whether made within the milk district or elsewhere ; or
 - (ii) To bring in the milk district for use, consumption, or sale milk purchased outside the milk district—except under a milk-vendor's license issued by the Board and in accordance with the terms and conditions of such license.
- (c) For the purposes of any such system of licensing create zones for the regulation of the delivery of milk :

Provided that public notification shall be given of the creation of any zone.

- 41.** In granting any milk-vendor's license the Board may prescribe—
- (a) The period or occasion of the license :
 - (b) The localities to be served or the route or routes to be traversed and the frequency of service in the delivery of milk :
 - (c) Such other terms or conditions incidental to the matters described in paragraphs (a) and (b) hereof as may, in the opinion of the Board, be desirable for the carrying-out of the principal functions of the Board.
- 42.** It shall be a condition of every milk-vendor's license (whether inserted therein or not) that the licensee will not abandon or curtail the service authorized by the license without the consent of the Board, to which he shall give not less than twenty-eight days' notice of his intention to abandon or curtail the service.
- 43.** Subject to appeal as hereinafter provided, the Board shall have the powers of a Licensing Authority under the Transport Licensing Act, 1931, in respect of the revocation, suspension, amendment, review, and transfer of any milk-vendor's license.
- 44.** The Board may, subject to these regulations and for the purpose of carrying out its functions under these regulations,—
- (a) Call for and obtain such information or returns as in the opinion of the Board are necessary or desirable :
 - (b) Require milk-vendors to keep such books and records as may be deemed necessary or desirable by the Board, and in such forms as it may from time to time prescribe.
- 45.** If compliance with the terms of any contract at any time in force is prevented wholly or partially by the operation of these regulations or of any resolution of the Board or decision of the Minister hereunder, then in respect of such prevention these regulations shall be a complete defence to any action on any such contract :
- Provided that if any party would be precluded by this provision from recovering the price of any goods supplied or remuneration for work done prior to the date when such compliance became so prevented, such party shall, any rule of law to the contrary notwithstanding, be entitled to recover the fair value of such goods or work.

APPEAL.

- 46.** There shall be a right of appeal to the Minister from the whole or any part of any decision of the Board made in respect of its powers of licensing confined by these regulations.
- 47.** The following persons and no others may appeal as aforesaid :—
- (a) The person in respect of whose application the decision of the Board was given :
 - (b) The holder of any license in respect of which the decision was given :
 - (c) The Controller :
 - (d) Any other person affected by the decision and being the holder of a license under these regulations, or any local authority or public body :
 - (e) Any twenty-five or more adult residents of any locality affected by the decision of the Board.

48. Pending the determination of any appeal duly lodged by a milk-vendor against any decision of the Board in relation to his business, the appellant may carry on his business in the manner in which and to the extent to which he was lawfully carrying it on at the time when the decision of the Board was given.

49. Every appeal to the Minister from a decision of the Board shall be commenced by petition in the form set out in the Schedule hereto, and shall be delivered to the Controller in duplicate (either personally or by registered letter addressed to the Controller) within twenty-one days after the date when the determination appealed against was communicated by the Board to the person affected or became known to the appellant, and a copy of any correspondence or other documents relating to the subject-matter of the appeal and in the possession of the appellant shall be attached to the petition.

50. Notification of receipt of the petition shall be forwarded by the Controller to the Board, and the Board shall thereupon cause to be forwarded to the Minister, through the Controller, a copy of any notes of evidence taken by the Board in connection with the subject-matter of the appeal.

51. For the purpose of better enabling the Minister to discharge his functions under these regulations, the Minister may from time to time appoint any person (hereinafter referred to as the Examiner) to inquire into and report to him upon any appeal or any matter in relation to an appeal.

52. For the purposes of any appeal under these regulations, the provisions of the Commissions of Inquiry Act, 1908, shall, so far as they are applicable and with any necessary modifications, apply as if the Minister and every Examiner were a Commission of inquiry appointed under that Act.

53. In his determination of any appeal the Minister may confirm, modify, or reverse the decision appealed against.

54. The Minister or any Examiner may, in the hearing of an appeal, accept such evidence as he thinks fit, whether such evidence would be legally admissible in judicial proceedings or not.

55. Save as hereinbefore provided, the Minister or the Examiner shall determine his procedure in such manner as he thinks fit.

56. A copy of the proceedings on appeal and of the decision of the Minister thereon shall, as soon as possible after the determination of such proceedings, be sent by the Minister to the Controller, who shall thereupon notify the decision to the Board and every other body or person who in the opinion of the Controller is directly interested therein.

57. The determination of the Minister in any appeal shall be final, and shall have effect according to its tenor. In any case where the decision appealed against is modified or reversed it shall be the duty of the Board to take forthwith any action that may be required to give effect to the determination of the Minister.

OTHER ENACTMENTS.

58. Nothing contained in these regulations shall relieve any person from the obligation of complying with the provisions of the Transport Licensing Act, 1931, the Dairy Industry Act, 1908, the Health Act, 1920, and the Sale of Food and Drugs Act, 1908, and of regulations made under any of the said Acts.

OFFENCES AND PENALTIES.

59. Every person who—

- (a) Knowingly supplies any false or misleading information in or concerning any application made in terms of these regulations ; or
- (b) Omits or refuses to supply any information herein required ; or
- (c) Fails to comply with any condition, duty, or obligation imposed by these regulations or imposed in any license under these regulations ; or
- (d) Fails to comply with any notice given to him under these regulations ; or
- (e) Otherwise fails to comply with any of these regulations—

commits an offence against these regulations.

60. Any person who commits an offence against these regulations shall be liable for every such offence to a fine not exceeding £10.

61. All fines recoverable under the provisions of these regulations shall, when recovered, be paid in the manner prescribed by Regulation 23 hereof.

SCHEDULE.

The Christchurch Milk Delivery Emergency Regulations 1940.

APPEAL TO THE MINISTER OF SUPPLY.

To the Minister of Supply (forwarded through the Oil Fuel Controller, Wellington).

I HEREBY appeal against the decision of the Christchurch Milk Delivery Board given at its meeting at on the day of, 19..

The decision was to the following effect—namely, —and the description of the relative license is as follows:—

1. Name of owner of business :
2. Description of business : [*Set out route and/or area served*].

My interest in the subject-matter of the appeal is [e.g., *Owner of business*], and I pray that the Minister of Supply provide relief as follows :

Full name of appellant :

Business address of appellant :

Date :

Signature :

[*To be signed by or on behalf of appellant.*]

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

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 2nd day of May, 1940.

These regulations are administered in the Transport Department.

(TT. 13/10/5/1.)