

1972/230



THE EGG MARKETING AUTHORITY REGULATIONS 1953,
AMENDMENT NO. 11

DENIS BLUNDELL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 24th day of October 1972

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 Egg Marketing Authority Regulations 1953, Amendment No. 11, and shall be read together with and deemed part of the Egg Marketing Authority Regulations 1953* (hereinafter referred to as the principal regulations).

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

2. Interpretation—(1) Regulation 2 of the principal regulations (as amended by regulation 2 of the Egg Marketing Authority Regulations 1953, Amendment No. 9) is hereby further amended—

*S.R. 1953/156 (Reprinted with amendments Nos. 1-9: S.R. 1967/229)
Amendment No. 10: S.R. 1968/68

- (a) By omitting from the definition of the term "hatchery", in subclause (1), the words "for the incubation of eggs":
- (b) By omitting from the definition of the term "operator", in subclause (1), the words "of the operations".
- (2) The said regulation 2 is hereby further amended by revoking the definition of the term "incubator", in subclause (1), and substituting the following definition:
"Incubator" means any apparatus that can be used to hatch eggs artificially; and includes any apparatus that can be used to hatch artificially the eggs of geese, turkeys, guinea fowl, or of pheasants or other game bird:."
- (3) By inserting in the said regulation 2, after the definition of the expression "public notice", in subclause (1), the following definition:
"Pullets" means domestic fowls or ducks older than day-old chicks but not more than 5 months old:."

3. Eggs from outside a marketing area—The principal regulations are hereby amended by omitting from regulation 35 the words "sale or of resale", and substituting the words "sale by wholesale or sale by retail".

4. Right of inspection—Regulation 37 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

"(1) Any member, officer, servant, or agent of the Authority, or any other person duly authorised in that behalf by the Authority, shall at any time reasonable in the circumstances have full and free access to all premises used for the production, hatching, or rearing of chicks or pullets, or for the production, storage, chilling, manufacturing, and marketing of eggs, for the purpose of inspecting those premises and any chicks, pullets, eggs, or egg pulp, thereon or therein, or any books, accounts, documents, and other papers relating to the production, hatching, or rearing of chicks or pullets, or to the production, storage, chilling, manufacturing, and marketing of eggs, and may take copies of or extracts from any such books, accounts, documents, or other papers."

5. Power to require information—Regulation 38 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

"(1) The Authority, or any member, officer, servant, or agent, of the Authority, or any other person duly authorised in that behalf by the Authority, may require any person having for the time being possession or control of any eggs intended for sale, or of any chicks or pullets, (whether that person is or is not the owner of the eggs, chicks, or pullets) to answer any inquiries relative to the source of production of the eggs, chicks, or pullets, or their ownership or their intended destination, and to carry out any instructions given by that member, officer, servant, or agent for the purpose of giving effect to any directions given by the Authority for the purposes of these regulations."

6. Eggs to be graded—(1) Regulation 57 of the principal regulations is hereby amended by omitting from subclause (1) the words "candled and graded", and substituting the words "graded for quality and size".

(2) The said regulation 57 is hereby further amended by revoking paragraph (a) of subclause (3), and substituting the following paragraph:

“(a) In respect of eggs intended to be sold by any licensed distributor, by that licensed distributor or by such other licensed distributor or other person as the Authority may appoint; or”.

7. Grading of eggs by licensed distributor—The principal regulations are hereby further amended by inserting after regulation 57, the following regulation:

“57A. For the purposes of regulation 57 of these regulations, the Authority may from time to time appoint any licensed distributor or other person to grade eggs other than eggs intended to be sold by that licensed distributor or person, and may give directions to him as to the place and time at, and the manner in which, he shall grade eggs in accordance with these regulations. The Authority may require that any licensed distributor or other person so appointed shall have facilities satisfactory to the Authority for grading eggs.”

8. Grades of hen eggs—(1) Regulation 58 of the principal regulations is hereby amended by omitting from subclause (1) the words “following—that is to say,”, and substituting the words “of size, namely,”.

(2) The said regulation 58 is hereby further amended by adding to subclause (1) the following proviso:

“Provided that for the purposes of this regulation, and of subclause (2) of regulation 60, and paragraph (a) of subclause (3) of regulation 60, of these regulations, the four grades of size for hen eggs may be additionally or alternatively described as ‘26’s’, ‘22’s’, ‘18’s’, and ‘15’s’ respectively.”

(3) The said regulation 58 is hereby further amended by inserting in subclause (2), after the words “Large Grade eggs”, the words “(or 26’s)”.

(4) The said regulation 58 is hereby further amended by inserting in subclause (3), after the words “Standard Grade eggs”, the words “(or 22’s)”.

(5) The said regulation 58 is hereby further amended by inserting in subclause (4), after the words “Medium Grade eggs”, the words “(or 18’s)”.

(6) The said regulation 58 is hereby further amended by inserting in subclause (5), after the words “Pullet Grade eggs”, the words “(or 15’s)”.

9. Containers to display grades of eggs contained—Regulation 60 of the principal regulations is hereby amended by omitting from paragraph (a) of subclause (3) the word “Heavy”, and substituting the word “Large”.

10. Action where retailer acting detrimentally—Regulation 61 of the principal regulations is hereby amended—

(a) By omitting from paragraph (a) the words “goods; or”, and substituting the words “goods, or to the proper fulfilling by the Authority of its functions as set out in subclause (1) of regulation 9 of these regulations; or”:

- (b) By omitting from paragraph (c) the words "eggs; or", and substituting the words "eggs, or to the proper fulfilling by the Authority of its functions as set out in subclause (1) of regulation 9 of these regulations; or".

11. Consignment of eggs to licensed distributors—The principal regulations are hereby further amended by revoking regulation 65, and substituting the following regulation—

"65. (1) All eggs consigned or forwarded to a licensed distributor for sale on behalf of the consignor shall be consigned or forwarded on the condition that the consignor shall not be entitled to repossess or require the return to him or the delivery to any other person of the consignment or any part of it without the consent of the Authority.

"(2) Subject to subclause (1) of this regulation, every licensed distributor shall treat all eggs so consigned or forwarded to him for sale as a consignment to be sold on behalf of the consignor, and he may deduct from the proceeds of any such sale any deductions from time to time approved by the Authority and duly notified by it to the distributor."

12. Poultry Industry Account—Regulation 69 of the principal regulations is hereby amended by adding the following subclauses:

"(5) Notwithstanding anything in subclause (3) of this regulation, the proceeds of any levy imposed under these regulations on day-old female chicks shall be paid into such special account within the Poultry Industry Account as the Authority shall establish for the purpose, and shall be used by the Authority, subject to subclause (6) of this regulation, for either or both of the following purposes—

"(a) For payment of special allowances to producers under the provisions of contracts entered into by the Authority with producers pursuant to regulation 27A of these regulations; and

"(b) For payment of the costs, charges, and expenses incurred by the Authority in the performance of its duties and the exercise of its powers and functions under these regulations and for the purposes of the Egg Marketing (Production Entitlement) Regulations 1970*, and in the administration thereof.

"(6) The proceeds of the levy to be used by the Authority in accordance with subclause (5) of this regulation for the purpose or purposes there mentioned shall be apportioned between those purposes by the Authority from time to time with the agreement of the Minister.

"(7) Such proportion of the proceeds of the levy as from time to time has been determined for payment of special allowances to producers under subclause (6) of this regulation shall be used by the Authority for the payment of special allowances to producers in accordance with paragraph (a) of subclause (5) of this regulation. Any amount which at any time has not been so used by the Authority shall be held by the Authority to be used for that purpose only and shall be so used at such times as the Authority may decide."

13. Registration of hatcheries—(1) Regulation 71 of the principal regulations (as added by regulation 9 of the Egg Marketing Authority Regulations 1953, Amendment No. 9) is hereby amended by omitting from subclause (2) the word “certification”, and substituting the word “certificate”.

(2) The said regulation 71 is hereby further amended by adding the following subclauses:

“(7) The operator named in the certificate of registration of any hatchery shall advise the Authority in writing within 14 days after any of the following events take place:

“(a) The hatchery ceases to operate as a hatchery:

“(b) The operator ceases to operate the hatchery:

“(c) Any incubator being part of the equipment of the hatchery is sold, leased, or otherwise disposed of in any way.

“(8) In advising the Authority pursuant to subclause (7) of this regulation, the operator shall notify the Authority of the date on which the event took place, and if the hatchery or any incubator being part of the equipment of the hatchery has been sold, leased, or otherwise disposed of in any way the operator shall notify the Authority of the names and addresses of all other parties to the transaction, and if it relates to an incubator, shall provide the Authority with a description of the incubator.”

14. Operator to keep records—(1) Regulation 75 of the principal regulations (as added by regulation 9 of the Egg Marketing Authority Regulations 1953, Amendment No. 9) is hereby amended by omitting from subclause (4) the words “on forms supplied for the purpose”, and substituting the words “in such manner as the Authority requires”.

(2) The said regulation 75 (as amended by regulation 3 of the Egg Marketing Authority Regulations 1953, Amendment No. 10) is hereby further amended by adding to subclause (5) the following proviso:

“Provided that if any hatchery so exempted is used for the incubation of eggs before the expiry date in the exemption notice, the exemption shall be deemed to be terminated immediately on the hatchery being so used, and the hatchery shall in every way be subject to the requirements of subclauses (1) to (4) of this regulation as if no exemption has ever been granted to the operator of the hatchery.”

15. New regulations inserted—The principal regulations are hereby further amended by inserting after regulation 75 (as added by regulation 9 of the Egg Marketing Authority Regulations 1953, Amendment No. 9) the following regulations:

“75A. Pullet rearers to supply details to Authority—Every person who owns pullets and sells them as part of a business of selling pullets shall, within 14 days of the sale by him of those pullets or any of them, notify the Authority in writing of—

“(a) The date of the sale:

“(b) The number of pullets sold:

“(c) The name and address of the purchaser.

“Entitlement Levy

“75B. Entitlement levy—(1) Subject to the provisions of these regulations there shall be paid to the Authority a levy in respect of the number of laying birds which any person is authorised to keep pursuant to any entitlement licence issued under the Egg Marketing (Production Entitlement) Regulations 1970*.

“(2) The entitlement levy shall be of such nature and incidence as the Authority may with the approval of the Minister from time to time determine and notify in the *Gazette*:

“Provided that—

“(a) The total entitlement levy payable by any person in any year ending with the 30th day of June shall not exceed \$1 for each laying bird authorised to be kept by an entitlement licence throughout that year; and

“(b) In respect of the number of laying birds which any person is authorised pursuant to an entitlement licence to keep for any period less than that year, the amount of entitlement levy payable shall, if the entitlement levy has been imposed at a fixed rate for the whole of that year, be reduced in proportion to that period, but if the entitlement levy has been imposed otherwise than at a fixed rate for the whole of the year, the amount payable shall be assessed at the rates from time to time applicable during the period that the entitlement licence was in force.”

16. Chick levy—(1) Regulation 76 of the principal regulations (as added by regulation 9 of the Egg Marketing Authority Regulations 1953, Amendment No. 9 and amended by regulation 4 of the Egg Marketing Regulations 1953, Amendment No. 10) is hereby further amended by omitting from subclause (1) the word “pullet”, and substituting the word “female”.

(2) The said regulation 76 is hereby further amended by omitting from subclause (2) the word “pullet”, and substituting the words “female day-old”.

(3) The said regulation 76 is hereby further amended by revoking subclause (9), and substituting the following subclauses:

“(9) For the purposes of this regulation, the custom hatching of day-old chicks and the retention of the beneficial ownership of the day-old chicks by the operator of a hatchery for his own use or for later sale as other than day-old chicks, shall be deemed to be a sale of the day-old chicks to the operator of the hatchery, and the giving of possession, or the agreeing to give possession, without a sale of day-old chicks by the operator of a hatchery to any person, shall be deemed to be a sale of day-old chicks to that person.

“(10) Every person who imports any day-old chicks into New Zealand shall, not later than the 20th day of the month following the importation, advise the Authority in writing of the number of day-old chicks imported by him into New Zealand during the previous calendar month, the date the chicks were imported into New Zealand, the name and address of the purchaser of the chicks and the date of purchase, and shall provide the Authority with such other particulars as it may require:

“Provided that the Authority may for any reason it considers sufficient, by notice in writing to any person, exempt him from the requirements of this subclause for such period as may be specified in the notice.”

17. Overdue payment levy—The principal regulations are hereby further amended by inserting, after regulation 77 (as added by regulation 9 of the Egg Marketing Authority Regulations 1953, Amendment No. 9), the following regulation:

“77A. (1) Subject to subclause (2) of this regulation, if any levy payable under these regulations is not paid in full when it becomes due and payable the Authority may in its discretion, on giving to the person by whom the levy is due and owing 14 days written notice of its intention so to do, charge that person from the date such levy became due and payable an overdue payment levy of an amount equivalent to 1 percent of the amount of the levy remaining owing by that person for each month or part month that the levy remains owing.

“(2) The total amount of any overdue payment levy that may be charged by the Authority in respect of any levy which has become due and owing and which remains owing shall not exceed 10 percent per annum of the levy due and owing.”

18. Exemption from payment of levies—Regulation 78 of the principal regulations (as added by regulation 9 of the Egg Marketing Authority Regulations 1953, Amendment No. 9, and amended by regulation 6 of the Egg Marketing Authority Regulations 1953, Amendment No. 10) is hereby further amended by omitting the words “regulation 76 of”.

19. Egg Marketing areas—(1) The First Schedule to the principal regulations (as substituted by regulation 8 of the Egg Marketing Authority Regulations 1953, Amendment No. 9) is hereby amended by omitting from the description, in item 2, of the Christchurch Egg Marketing Area the words “the Borough of Lyttelton”, and substituting the words “the Boroughs of Riccarton and Lyttelton”.

(2) The said First Schedule is hereby further amended by adding the following item:

“16. Whangarei Egg Marketing Area—All that area of land within the City of Whangarei, as from time to time constituted.”

P. J. BROOKS,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

Regulation 2 relates to interpretation.

Regulation 4 extends the right of inspection of premises where eggs are produced or handled to include premises where chicks and pullets are hatched or reared.

Regulation 6 revises egg grading requirements.

Regulation 7 relates to the grading of eggs.

Regulation 8 revises the description of the grades of size for eggs.

Regulation 10 revises the Authority's powers to regulate activities of retailers detrimental to the performance of the Authority's functions.

Regulation 11 prohibits producers from repossessing eggs consigned to egg floors.

Regulation 12 relates to the purposes for which the chick levy may be spent.

Regulation 13 requires a hatchery operator to notify the Authority of the closing down of a hatchery or the disposal of an incubator.

Regulation 15 authorises the introduction of levies on poultry authorised under entitlement licences.

Regulation 17 authorises the Authority to impose an overdue payment levy.

Regulation 19 relates to the description of Christchurch Egg Marketing Area, and creates the Whangarei Egg Marketing Area.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 October 1972.

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