

1970/236



THE EGG MARKETING (PRODUCTION ENTITLEMENT) REGULATIONS 1970

ARTHUR PORRITT, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 23rd day of November
1970

Present:

THE RIGHT HON. SIR KEITH HOLYOAKE, G.C.M.G., C.H., PRESIDING 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 (Production Entitlement) Regulations 1970.

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

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

“Authority” means the Egg Marketing Authority established under the Egg Marketing Authority Regulations 1953*:

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

“Entitlement licence” means a licence issued by the Authority in the form prescribed in the Schedule to these regulations:

“Keep”, in relation to any number of laying birds, means to keep that number of laying birds whether in any one place together, or in several places, anywhere in New Zealand:

“Laying bird” means any domestic hen or domestic duck not less than 6 months old:

“Person” includes any body of persons whether corporate or unincorporate.

3. Application of these regulations to persons keeping more than 1,000 laying birds—No person shall, at any one time, keep more than 1,000 laying birds unless in accordance with these regulations.

4. Application for entitlement licence—Within 1 month after these regulations come into force, every person who keeps more than 1,000 laying birds shall apply to the Authority, in such manner as the Authority shall require, for the issue of an entitlement licence.

5. Persons keeping more than 1,000 laying birds required to hold entitlement licence—No person shall after the expiry of 2 months after these regulations come into force keep more than 1,000 laying birds unless he holds an entitlement licence issued to him under these regulations.

6. Issue of entitlement licences—Entitlement licences may be issued for such periods as the Authority thinks fit.

7. Form of entitlement licence—Every entitlement licence shall be in the form set out in the Schedule to these regulations, and shall specify the maximum number of laying birds which the holder of the licence may keep without payment of extra-entitlement levy.

8. Maximum number of laying birds specified for person under contract—Subject to regulation 16 of these regulations, the maximum number of laying birds specified in any entitlement licence issued to any person who, on the 2nd day of March 1970, was subject to any contract with the Authority made pursuant to regulation 27A of the Egg Marketing Authority Regulations 1953 (as inserted by regulation 5 of the Egg Marketing Authority Regulations 1953, Amendment No. 9) shall be the maximum number of laying birds which could be kept by the person pursuant to that contract on the date of issue of the entitlement licence.

9. Maximum number of laying birds specified for person not under contract—(1) Subject to regulation 16 of these regulations, the maximum number of laying birds specified in any entitlement licence issued to any person who was not, on the 2nd day of March 1970, subject to any contract with the Authority made pursuant to regulation 27A of the Egg Marketing Authority Regulations 1953, shall be the number of laying birds which were being kept by the person on that day.

(2) For the purposes of this regulation, the number of laying birds kept by any person shall include—

- (a) Any birds, other than laying birds, being raised by him on the 2nd day of March 1970 for the purpose of being kept by him as laying birds; and
- (b) Any birds hatched before the 2nd day of March 1970 which before that date he had contracted to purchase for the purpose of keeping as laying birds—

if by the 31st day of August 1970 they were being kept by him as laying birds and had not replaced or were being kept for the purpose of replacing laying birds being kept on the 2nd day of March 1970.

(3) Notwithstanding anything in this regulation, if on the 2nd day of March 1970 the number of laying birds kept by any person not subject to contract was for any reason to the satisfaction of the Authority less than the number of laying birds usually kept by that person, or less than the number of laying birds which by virtue of facilities existing on that date could have been kept by that person, the Authority may issue an entitlement licence to the person specifying the number of laying birds as determined by the Authority to be usually kept or which by virtue of those facilities could have been kept by the person as the maximum number of laying birds which may be kept pursuant to the entitlement licence issued.

10. Maximum number of 1,000 or less laying birds for person under contract—Notwithstanding anything in regulations 8 or 9 of these regulations, no entitlement licence shall be issued for a maximum number of 1,000 or less laying birds unless the person applying for the issue of the licence was on the 2nd day of March 1970 subject to a contract with the Authority made pursuant to regulation 27A of the Egg Marketing Authority Regulations 1953, and could keep that number of laying birds pursuant to that contract on the date of issue of the entitlement licence.

11. Revocation of entitlement licence—(1) Subject to subclause (2) of this regulation the Authority may, for any reason it considers sufficient,—

(a) Revoke any entitlement licence:

(b) Increase or reduce the maximum number of laying birds which may be kept pursuant to any entitlement licence:

(c) Revoke, alter, or add to any terms or conditions of any entitlement licence.

(2) The Authority shall, before revoking an entitlement licence, or increasing or reducing the maximum number of laying birds which may be kept pursuant to an entitlement licence, or revoking, altering, or adding to any terms or conditions of an entitlement licence, notify the holder of the licence in writing all the reasons for so doing, and unless the holder within 21 days of receipt of that notice lodges notice of appeal pursuant to regulation 16 of these regulations, the revocation of the entitlement licence, or the increase or reduction in the maximum number of laying birds which may be kept pursuant to the licence, or the revocation, alteration, or addition to any terms or conditions of the licence, shall take effect as from the expiry of that time for appeal.

12. Transfer of entitlement rights—(1) The holder of an entitlement licence may apply to the Authority for its approval to the transfer to any other person of all or part of his right under the licence to keep laying birds.

(2) Application for the transfer shall be made in such manner as the Authority may require.

(3) The Authority shall, on each application made under this regulation, either approve or decline to approve the transfer. The Authority may decline to approve any transfer to any person who under any entitlement licence or licences is already entitled to keep more than 20,000 laying birds, or who by virtue of the transfer would become entitled under any entitlement licence or licences to keep more than 20,000 laying birds. If the Authority approves the transfer, it may do so subject to such terms and conditions as it thinks fit.

(4) On approval by the Authority of any transfer the transferor shall surrender to the Authority for cancellation the entitlement licence held by him, and the transferee shall do likewise in respect of any entitlement licence held by him. The Authority shall issue a new licence or licences giving effect to the transfer as so approved in substitution for those licences surrendered.

13. Extra-entitlement levy—(1) Every person shall for each year ending with the 31st day of May pay an extra-entitlement levy of \$5—

(a) For each laying bird kept by him at any time during that year over the maximum number specified on his entitlement licence; or

(b) If he has no entitlement licence, but at any time during that year keeps more than 1,000 laying birds, for each laying bird more than 1,000.

(2) If any extra-entitlement levy due under these regulations is not paid within 14 days after demand is made in writing by the Authority on the person from whom the levy is due, the levy shall be recoverable in any Court of competent jurisdiction as a debt due to the Authority.

(3) The proceeds of the extra-entitlement levy shall be paid into the Poultry Industry Account established under regulation 69 of the Egg Marketing Authority Regulations 1953.

(4) Regulation 69 of the Egg Marketing Authority Regulations 1953 is hereby consequentially amended—

(a) By inserting in subclause (1), after the word “regulations”, the words “and for the purposes of the Egg Marketing (Production Entitlement) Regulations 1970”:

(b) By inserting in paragraph (a) of subclause (3), after the word “regulations”, the words “and under the Egg Marketing (Production Entitlement) Regulations 1970”.

14. Entitlement licence to be fully operated—If any holder of an entitlement licence fails, without sufficient reason to the satisfaction of the Authority, to keep a number of laying birds on the poultry unit mentioned in the licence as near as is reasonably practicable to the number of laying birds specified in the licence the Authority may, subject to regulation 16 of these regulations, reduce the maximum number of laying birds specified in the licence, or otherwise revoke, alter, or add to the terms and conditions of the licence.

15. Issue of further entitlement licences—Notwithstanding anything in the foregoing regulations, if at any time it appears to the Authority that the issue of further entitlement licences is necessary in order to produce more eggs to meet the needs of consumers or in order to produce more eggs for any other purpose, the Authority may, subject to the approval of the Minister of Agriculture, issue such further entitlement licences to such persons and upon such terms and conditions as it thinks fit.

16. Appeals—(1) Any person may appeal against any decision given by the Authority—

- (a) Refusing to issue to him an entitlement licence:
- (b) Imposing any term or condition on the issue to him of an entitlement licence:
- (c) Specifying, reducing, or increasing the maximum number of laying birds which may be kept by him pursuant to an entitlement licence:
- (d) Revoking any entitlement licence issued to him:
- (e) Revoking, amending, or adding to any term or condition of an entitlement licence issued to him:
- (f) Refusing to approve the transfer of entitlement licence rights from him to any other person.

(2) Every appeal against any decision of the Authority mentioned in subclause (1) of this regulation shall be commenced by the appellant giving, within 21 days of receipt by him of that decision, written notice of appeal, setting out the grounds for appeal, to the Authority.

(3) On receipt of any notice of appeal, the Authority shall refer its decision together with that notice to the arbitrator appointed pursuant to subclause (4) of this regulation.

(4) For the purpose 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 Supreme Court as shall be nominated by the President of the New Zealand Law Society.

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

(6) The appeal shall be heard by the arbitrator, who may affirm, reverse, or vary the decision given by the Authority. The decision of the arbitrator shall be notified in writing to the appellant and the Authority. The decision of the arbitrator shall be final and conclusive and shall bind both the appellant and the Authority.

17. Obtaining information—(1) Any officer or servant or agent of the Authority or any member of the Authority or any other person duly authorised in that behalf by the Authority may for the purposes of obtaining any information or particulars required by the Authority in exercising its powers and functions under these regulations at all reasonable times during business hours inspect any premises, take copies of any books, accounts, documents, or other papers, and count the number of and identify any laying birds present on any property.

(2) Every person commits an offence against these regulations who obstructs or hinders any information or particulars being obtained under this regulation.

18. Offences—(1) Every person commits an offence against these regulations who, without lawful excuse, acts in contravention of or fails to comply in any respect with any provision of these regulations.

(2) Every person who commits an offence against these regulations shall be liable on summary conviction to a fine not exceeding \$400, in the case of an individual, and, in the case of a body corporate, to a fine not exceeding \$2,000.

SCHEDULE

Reg. 7

ENTITLEMENT LICENCE

PURSUANT to the Egg Marketing (Production Entitlement) Regulations 1970, the Egg Marketing Authority hereby authorises

.....
(Name of holder of this licence)

of

(Residential address of holder)

to keep on the poultry unit situated at:

.....
(Location of poultry unit)

and known as

(Name (if any) by which the poultry unit is commonly known)

a maximum of laying birds (i.e., domestic hens or domestic ducks not less than 6 months old).

Subject to the following conditions—

Dated at Wellington this day of 197 .

THE COMMON SEAL of the
EGG MARKETING AUTHORITY
was hereto affixed in the
presence of:

.....
General Manager.

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.

Every person who keeps more than 1,000 laying birds is required to apply to the Egg Marketing Authority for an entitlement licence within 1 month after these regulations come into force. As from 2 months after these regulations come into force, no person shall keep more than 1,000 laying birds unless he is the holder of an entitlement licence. The licence shall specify the maximum number of laying birds the holder may keep without payment of an extra-entitlement levy. The extra-entitlement levy is \$5 per year for each laying bird subject to the levy kept at any time during that year. Regulation 16 provides a procedure for appeals against decisions of the Authority.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 November 1970.

These regulations are administered in the Department of Agriculture.