

1955/212



**THE HOP MARKETING REGULATIONS 1939, AMENDMENT
NO. 6**

C. W. M. NORRIE, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 21st day of December 1955

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Marketing Act 1936 and the Agriculture (Emergency Powers) Act 1934, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. These regulations may be cited as the Hop Marketing Regulations 1939, Amendment No. 6, and shall be read together with and deemed part of the Hop Marketing Regulations 1939* (hereinafter referred to as the principal regulations).

2. Regulation 13 of the principal regulations is hereby amended by adding the following subclause:

“(4) The Committee may permit any person to attend at any of its meetings in an advisory capacity, but any such person shall have no voting rights. The expenses of any such person whose attendance at a meeting is requested pursuant to a resolution of the Committee shall be paid on the same basis and at the same rate as the expenses of a member of the Committee.”

3. Regulation 14 of the principal regulations is hereby amended by adding the words “and to determine and recommend to the Minister, after consultation with the New Zealand Brewers’ Association, the quantity of bulk hops required to be imported for brewing purposes should the quantity of hops produced in New Zealand be insufficient to meet the requirements of brewers in New Zealand. In the event of disagreement between the Committee and the New Zealand Brewers’ Association the matter in dispute shall be decided by the Minister.”

* Statutory Regulations 1939, Serial number 1939/96, page 503.

Amendment No. 1: Statutory Regulations 1941, Serial number 1941/80, page 297.

Amendments Nos. 2 and 3: (*Revoked by Amendment No. 4.*)

Amendment No. 4: Statutory Regulations 1950, Serial number 1950/77, page 236.

Amendment No. 5: Statutory Regulations 1954, Serial number 1954/88, page 378.

4. Regulation 15 of the principal regulations is hereby amended by adding the following paragraph:

“(e) For the making of forward contracts for the sale of hops either in New Zealand or overseas.”

5. The principal regulations are hereby amended by adding the following regulations:

“22. The Committee may, by resolution, authorize the expenditure of sums not exceeding £10 for the purpose of rewarding persons for services rendered to the hop industry.

“23. The Committee shall cause a copy of its report and balance sheet to be delivered to every producer and shall subsequently arrange a general meeting of producers before the holding of the election for the producers’ representatives on the Committee.

“24. (1) Extraordinary general meetings of producers may be arranged by the Committee if deemed necessary or at the request of twenty producers.

“(2) Seven days notice, either in writing addressed to each producer or by advertisement in the local newspaper or papers, shall be given of all meetings of producers.

“(3) A quorum at any such meeting shall consist of twenty-five producers personally present.

“25. Any producer dissatisfied with the grading of his hops may, within fourteen days after receipt of his grading sheet have the matter referred to arbitration. The reference shall be to two arbitrators, one appointed by the producer and the other by the Committee, and any such arbitration shall be conducted in manner provided by and subject to the provisions of the Arbitration Act 1908, and the producer’s hops shall be graded as determined by the arbitration:

“Provided that in any event the producer shall pay the cost of his arbitrator and the Committee shall pay the cost of its arbitrator, and the cost of the umpire (if any) shall be paid equally by the producer and the Committee.

“26. The Committee or its brokers or selling agents shall have the right to reject any hops delivered by any producer to it or them that are insufficiently dried or are not in a marketable condition at the time of delivery or which have been falsely packed or, alternatively, the Committee or its brokers or selling agents may do or cause to have done to any such hops anything that may be necessary or proper to be done to put the hops into a marketable condition, and all the cost of so doing shall be charged to and paid by the producer delivering the hops or may be deducted out of any money payable or to become payable to the producer.

“27. (1) Subject to the provisions of these regulations, all the hops delivered by producers to the Committee in any season shall be pooled in manner hereinafter provided in two pools (in these regulations referred to as the First Pool and the Second Pool respectively) for the benefit and on account of all the producers whose hops or part of whose hops are in any one season in the respective pools.

“(2) The hops in any pool shall be sold for the benefit and on account of all the producers whose hops or any part thereof are in that pool irrespective of the producer who grew the hops, and the Committee shall have power to make payments from time to time to the respective producers on account of the hops sold either by the Committee or its brokers or selling agents from the respective pools:

“Provided that any such payments shall be made separately in respect of the hops in each pool in each season and any payments made in respect of the hops in one pool shall be at the same rate per pound, but the rate of payment for the hops in one pool may be at a different rate from the rate of payment for the hops in the other pool.

“(3) Each producer shall receive payment, at the appropriate rate applicable to the hops, in proportion to the quantity of the hops delivered by him as aforesaid in a season and accepted for sale.

“28. Subject to the provisions of these regulations, the First Pool shall comprise not more than 950,000 lb. weight of first grade hops grown in each season by those producers for the time being owning or entitled to First Pool rights.

“29. The Second Pool shall comprise the balance of the hops above the quantity comprised in the First Pool fit for sale and grown and delivered in each season by producers.

“30. (1) The hops in each pool shall in each season be sold and marketed separately and the proceeds therefrom paid and distributed separately as hereafter provided, and in each season all the hops in the First Pool shall be sold before any of the hops in the Second Pool are sold:

“Provided that the Committee shall have power, in its absolute discretion, for the purpose of completing any contract or order, to transfer any quantity of hops from the Second Pool to the First Pool if a similar quantity of hops of the same grade is transferred from the First Pool to the Second Pool to take the place of the quantity transferred to the First Pool. Any such transfer shall not affect the rights of producers in the respective pools or entitle a producer whose hops are transferred from the Second Pool to the First Pool to any claim or benefit in or under the First Pool other than a claim or benefit which a producer had or might have had before any such transfer.

“(2) The requirements of the New Zealand market in each season shall be satisfied from hops in the First Pool before any hops in that pool are made available for sale outside New Zealand.

“(3) Except in the case of inability otherwise to supply any order, no hops from any Second Pool shall be sold till all the First Pool hops of any previous season or seasons are sold.

“31. (1) After deducting from the respective gross proceeds of the sale of the hops in each pool all expenses of handling and selling the hops in each pool and a proportion from each pool of the general expenses of managing and conducting the business of the Committee and any other outgoings of the Committee for the current year ending on the thirty-first day of July in each year, any such proportion being based on the gross amount realized for the hops sold in each respective pool, the net proceeds of the hops of each grade in

each pool delivered and sold and paid for up to that date (all payments to producers on account being first deducted) shall be divided immediately after that date between the respective producers entitled to the benefits of the respective pools.

“(2) The division of any such proceeds of each pool shall be made separately in respect of each pool and of each grade in each pool, and each producer shall take his proportion of the net proceeds of the hops in each grade in each or any pool sold and paid for to that date according to the quantity of each grade delivered by him for sale and placed and included in the respective pools as aforesaid.

“32. (1) Each producer shall have the right to supply to the Committee and have included in the First Pool during each and every season the number of pounds weight or quantity of first grade saleable hops grown by him of which he is registered as the owner in the books of the Committee on the first day of November in every year. Any such right to supply and have included in the First Pool is referred to in these regulations as First Pool rights.

“(2) Each producer shall register with the Committee on or before the 1st day of January 1956 and specify the land on which he is producing hops, as the person entitled to the proceeds of the sale of any hops produced from that land and thereafter in each succeeding season every new producer shall on or before the first day of December in that year similarly register with the Committee.

“33. The Committee shall open and keep a register of First Pool rights with the full names and addresses of the owners thereof and the number of pounds weight or quantity of hops each producer is from time to time entitled to have included in any such First Pool, and the full legal description of any land to which the First Pool rights attach.

“34. Every producer who registers with the Committee pursuant to subclause (2) of regulation 32 hereof on or before the 1st day of January 1956 shall be allocated by the Committee First Pool rights (to be operative as from the 1st day of November 1955) based on the average yearly pounds weight of the hops sold by him through the Committee over the last five seasons, and, in any case where a producer has not been engaged over the whole of that period in producing hops, the Committee may, in its discretion, allocate First Pool rights to that producer on the basis of the average production over a less period or on such other basis as it considers just and reasonable in the circumstances.

“35. In the event of any producer or producers entitled to deliver and have included in the First Pool failing to deliver saleable hops in any season up to the total of his or their First Pool rights for that season, the First Pool for that season shall be reduced by the total quantity short delivered by that producer or producers.

“36. (1) Notwithstanding anything contained in these regulations, no producer who at any time after the date of the commencement of these regulations ceases to be a hop grower for a period of twenty-four months shall have any right thereafter to the inclusion in the First Pool of any hops and shall thereupon forfeit his First Pool rights (if any), and all hops thereafter grown by that producer shall thereafter be included and placed in the Second Pool and shall be dealt with accordingly:

“Provided that no producer shall be deemed to have ceased for a period of twenty-four months to be a hop grower and to have forfeited his First Pool rights unless a resolution of the Committee to that effect

is passed at a meeting of the Committee of which due notice has been given and of which meeting the producer concerned is notified in writing at least fourteen days prior to the date of the meeting.

“(2) Before the passing of any such resolution the producer shall be entitled to be heard.

“(3) The Committee, in dealing with any such resolution, may consider any evidence they think fit or may rely on their own personal knowledge and shall be the sole judges of whether or not a producer has ceased to be a hop grower for twenty-four months and to have forfeited his First Pool rights accordingly.

“(4) Any First Pool rights forfeited as aforesaid may be allotted by the Committee amongst such other producers as the Committee thinks fit.

“37. (1) Notwithstanding anything contained in these regulations, any producer who fails for two successive seasons to deliver first grade saleable hops up to the total of his First Pool rights may be called upon by the Committee to show cause why the First Pool rights of which he is the registered holder should not be reduced to such number of pounds weight as the Committee considers to be just and reasonable in view of the quantity he has been supplying and the excess of his First Pool rights forfeited:

“Provided that no such rights shall be forfeited until due notice has been given to the producer concerned calling upon him to attend before the Committee at a meeting of which at least fourteen days prior notice in writing is given to him and then only upon a resolution of the Committee to that effect.

“(2) If the producer does not attend at the meeting of which he has been given due notice he shall be deemed to be unable to show cause against the proposed reduction and forfeiture.

“(3) If the producer does attend at such meeting, he shall be entitled to be heard and the Committee may consider any evidence they think fit and may rely on their own personal knowledge and shall be the sole judges of whether or not the producer has shown cause or otherwise as regards the proposed reduction and forfeiture.

“(4) Any First Pool rights forfeited under this regulation may be allotted by the Committee amongst such other producers as the Committee thinks fit.

“38. No producer entitled to First Pool rights shall deliver to the Committee, or any broker or selling agent appointed by the Committee, any hops for inclusion in the First Pool except such hops as were grown and produced by that producer and were not bought or acquired by him from some other producer or person or persons, and, if the Committee (whose decision thereon shall be final) are not satisfied that any such producer's hops were all grown by him, the Committee may exclude the hops delivered by the producer from the First Pool and include them in the Second Pool, and any such hops shall thereupon be dealt with as Second Pool hops, and the producer whose hops are so dealt with shall have no right to any payment out of the proceeds of the First Pool for any such hops.

“39. (1) First Pool rights shall attach only to the land in respect of which the producer to whom they are allocated is registered under regulation 33 hereof, and should any producer sell, transfer, or lease any

such land or any part thereof he may, with the prior consent of the Committee, transfer the whole or a defined part (to be stated in pounds weight) of his First Pool rights to the purchaser, transferee, or lessee.

“(2) The holder of any First Pool rights may surrender all or any of any such rights and any First Pool rights so surrendered may be allotted by the Committee amongst such other producers as the Committee thinks fit.

“(3) Upon the expiration of his lease a producer may, with the consent of the Committee, transfer back to the lessor or the lessor’s nominee the First Pool rights attaching to that land.

“(4) A producer who proposes to grow his hops on land other than that in respect of which he is registered and on which he has hitherto grown them may, with the consent of the Committee, apply to amend the registration of his First Pool rights so as to attach the rights to that other land in place of the land on which he has ceased to grow.

“(5) Upon the death of a producer and production to the Committee of the probate of his Will or letters of administration in his estate his First Pool rights shall be transmitted to his executors or administrators, as the case may be, and the Committee shall cause to be made in the Register of First Pool Rights an entry recording any such transmission.

“(6) First Pool rights shall be capable of being dealt with only in the manner provided in these regulations and the Committee may, in their absolute discretion, refuse wholly or in part to consent to any transfer of or other dealing with any First Pool rights without assigning any reason or reasons for any such decision and the decision of the Committee thereon shall be final and conclusive and no producer shall have any right of appeal to any Court against the refusal of the Committee to consent to any transfer of or other dealing with any such First Pool rights.

“40. Upon the consent of the Committee being given to any transfer of any First Pool rights or the passing of a resolution forfeiting, reducing, increasing, allocating, or accepting a surrender of any First Pool rights the Committee shall cause to be made in the Register of First Pool rights an entry recording the transaction.”

6. The Schedule to the principal regulations is hereby amended by omitting from paragraph (24) the words “the fourth Wednesday in the month of August”, and substituting the words “the first Wednesday in the month of September”.

T. J. SHERRARD,
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 authorizes the Hop Marketing Committee to permit any person to attend its meetings in an advisory capacity.

Regulations 3 and 4 extend the functions of the Committee.

Regulation 5 adds several new regulations to the principal regulations. The principal purpose of the new regulations is to authorize the division of hops delivered to the Committee into two pools. The first pool will consist of

950,000 lb. of first grade hops and the second pool will consist of the balance of hops delivered. The requirements of the New Zealand market will be satisfied from hops in the first pool before any hops in that pool are made available for export. No hops from the second pool will be sold until all hops from the first pool are sold. Provision is made for the procedure to be followed in ascertaining the growers entitled to have their hops included in the first pool and the amount of hops which each grower is entitled to have included in that pool.

Regulation 6 changes the date of the closing of the pool of producers' representatives from the fourth Wednesday in August to the first Wednesday in September.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 21 December 1955.

These regulations are administered in the Department of Agriculture.

(Notice No. Ag. 6018.)