

1956/65



THE MILK REGULATIONS 1956

H. E. BARROWCLOUGH, Administrator of the Government

ORDER IN COUNCIL

At the Government House at Wellington this 16th day of May 1956

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL

PURSUANT to the Milk Act 1944, His Excellency the Administrator of the Government, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Milk Regulations 1956.
- (2) These regulations shall come into force on the 1st day of June 1956.
2. In these regulations, unless the context otherwise requires,—
 - “The Act” means the Milk Act 1944:
 - “Board” means the New Zealand Milk Board constituted by the Milk Amendment Act 1953:
 - “Minister” means the Minister of Agriculture:
 - “Shop dairy” means a shop where milk is sold for consumption or use off the premises and not otherwise and where the milk so sold is sold in the form in which it was received into the shop dairy:
 - “Roundsmen” means any person who sells or delivers milk from door to door.

PART I—DIRECT SALES BY PRODUCERS

3. (1) In this part of these regulations, unless the context otherwise requires,—
 - “Approved association” means an approved association or organisation within the meaning of the National Milk Scheme:
 - “Commercial user” means any person who buys milk for sale for consumption on his premises, whether in the form in which it is received by him or otherwise, and whether separately or in combination with any other substance or substances; and includes any institution under the control of any Hospital Board or any separate institution within the meaning of the Hospitals Act 1926:

“Consumer” means any person who buys milk for purposes other than resale:

“Direct sale” means any sale authorised pursuant to regulation 4 of these regulations:

“Milk marketing district” means a milk marketing district named and described in the National Milk Scheme:

“Milk producer”, in any case where a farm is occupied by a sharemilker, means the sharemilker where the sharemilker sells milk from the farm and the owner where the owner sells milk from the farm:

“National Milk Scheme” means the National Milk Scheme 1952,* or any other scheme hereafter enacted in substitution therefor and for the time being in force.

(2) This Part of these regulations shall apply generally throughout New Zealand.

4. (1) Subject to the provisions of subclause (2) of this regulation, no milk producer shall—

(a) Sell, in a milk marketing district, any milk intended for human consumption; or

(b) Sell, outside a milk marketing district, any milk intended to be taken into a milk marketing district for the purpose of being sold for human consumption,—

except under an annual licence issued by the Board and for the time being in force, and in accordance with the terms and conditions thereof.

(2) This regulation shall not apply—

(a) To any sale that is made to an approved association:

(b) To any sale to a commercial user or a consumer, being a sale of not more than 1 gallon of milk at any one time, if the sale is made on the dairy premises of the milk producer.

5. No roundsman or other person shall—

(a) Purchase any milk from a milk producer if the sale of that milk to him would constitute a sale by that producer in contravention of this Part of these regulations:

(b) Purchase or offer or agree to purchase from a milk producer, outside a milk marketing district, any milk intended to be taken into a milk marketing district for the purpose of being sold for human consumption, without disclosing to the producer that the milk is intended to be taken into a milk marketing district for such purpose as aforesaid.

6. (1) Every milk producer who, at the commencement of these regulations, is engaged in the business of making direct sales of milk shall, if he applies to the Board for a licence under this Part before the 1st day of September 1956, be entitled to a licence authorising him to sell, by direct sales, such number of gallons of milk a day as shall be specified in the licence, being not less than the average number of gallons of milk a day sold by him, by direct sales, during the period of twelve months preceding the commencement of these regulations.

(2) Every milk producer shall, on making application for a licence under this regulation, supply to the Board such information as may be necessary to enable the Board to determine, to its satisfaction, the average number of gallons of milk a day sold by him as aforesaid, by direct sales, at the commencement of these regulations.

(3) If any milk producer to whom this regulation applies fails to apply for a licence before the date specified in subclause (1) of this regulation, the Board may, in its discretion, at the request of the producer, extend the time within which an application for a licence may be made by that producer, if it is satisfied that there are special reasons why such an application was not made before that date.

(4) Subject to subclause (1) of this regulation, the provisions of this Part of these regulations shall apply to every licence issued pursuant to this regulation.

7. (1) Every application for a licence under this Part of these regulations shall be in writing, in such form as may from time to time be approved by the Board, and shall specify—

- (a) An estimate of the average daily quantity of milk intended to be supplied by direct sales during the period of twelve months following the making of the application:
- (b) The names of the persons to whom milk is intended to be supplied for the purposes of resale:
- (c) An estimate of the average daily quantity of milk intended to be supplied to commercial users during the said period:
- (d) An estimate of the average daily quantity of milk intended to be sold to consumers during the said period:
- (e) An estimate of the average daily quantity of milk intended to be sold to shop dairies during the said period:

(2) Every such application shall be addressed to the Board at Wellington.

(3) The applicant shall supply to the Board such other particulars relating to the subject matter of the application as may from time to time be reasonably required by the Board.

8. (1) Except in the case of a licence to which any person may be entitled under regulation 6 of these regulations, and subject to the provisions of this regulation, the Board may in its discretion grant or refuse a licence to any applicant under this Part of these regulations.

(2) Subject, in any case to which subclause (1) of regulation 6 of these regulations applies, to the provisions of that subclause, any licence granted by the Board may be granted upon and subject to such terms and conditions as it thinks fit.

(3) The Board shall not grant a licence to any milk producer whose dairy premises are not for the time being registered as a dairy under the Dairy (Milk Supply) Regulations 1939.*

9. Where the Board grants a licence, the Board shall issue to the applicant, on payment of a fee of 10s., a licence in a form approved by the Board:

Provided that if the person to whom the licence is granted is the holder of a licence issued by a Milk Authority entitling him to sell milk, or to bring milk into a milk district, no fee shall be payable for the licence issued under this regulation.

10. Every licence issued under this Part of these regulations shall, unless it is sooner revoked under this Part, and except while it is suspended thereunder, continue in force until the end of the month of August next following the issue of the licence, and shall then expire.

11. The Board may at any time, in its discretion, revoke any licence issued under this Part if—

- (a) The licensee commits a breach of any of the terms or conditions of his licence; or
- (b) During the period of twelve months immediately preceding any such revocation the licensee has been convicted of an offence against the Act, or against these regulations or any other regulations made under the Act; or
- (c) During the period of twelve months immediately preceding any such revocation the licensee has been convicted of any offence, being an offence arising out of or in respect of his use of his dairy premises or any equipment therein or the sale or disposal of milk therefrom, against the Dairy Industry Act 1952, the Food and Drugs Act 1947, or the Health Act 1920, or any regulations made under any of those Acts; or
- (d) Any certificate of registration held by the licensee in respect of his dairy premises or any part thereof under the Dairy (Milk Supply) Regulations 1939* is cancelled under those regulations.

12. (1) If in the opinion of the Board the condition of the dairy premises of any licensee under this Part of these regulations, or of any equipment on those premises, or the conduct of the licensee, or of any employee of the licensee, in relation to his business as a milk producer, is such that it is in the interests of the public health that his licence should be revoked or suspended, the Board may give notice in writing to the licensee calling upon him to appear before a committee of the Board (being a committee appointed under this regulation), at a time and place to be specified in the notice, to show cause why his licence should not be revoked or suspended.

(2) After hearing the licensee, or any counsel, solicitor, or agent appearing on his behalf, or if no such person appears at the time and place so specified, the committee may, in its discretion, recommend to the Board that the licence be revoked or that it be suspended for such period as it thinks fit. On any such recommendation being made to it, the Board may, in its discretion, revoke the licence or suspend it for such period as it thinks fit.

(3) For the purposes of any hearing under this regulation, the Board may appoint a committee consisting of the Chairman or the Deputy Chairman and not less than two other members of the Board.

13. Where the Board revokes or suspends any licence under this Part of these regulations, the Board shall give notice in writing to the licensee of the revocation or suspension, and of the grounds thereof.

14. (1) Any licensee whose licence is revoked or suspended under this Part of these regulations may appeal against the revocation or suspension to a Magistrate's Court in accordance with subclause (2) of this regulation.

(2) Within fourteen days after the notice of the revocation or suspension is given as aforesaid, the appellant shall give notice of appeal to the Board and make application to a Magistrate's Court for an order reversing or varying the decision of the Board. The provisions of subsections (2) to (6) of section 71 of the Act (which relate to the hearing and determination of appeals against decisions of Milk Authorities) shall, with the necessary modifications, apply to every appeal under this regulation.

15. (1) Every revocation or suspension under this Part shall, subject to the determination of a Magistrate's Court on any appeal under regulation 14 hereof, take effect as from the time of the receipt by the licensee of notice thereof.

(2) The Board may, in its discretion, cause public notice to be given of the revocation or suspension of any licence:

Provided that no such notice shall in any case be given until after the expiration of the time allowed for an appeal or, if there is an appeal, until after the determination of the appeal and confirmation by the Court of the revocation or suspension.

(3) Within twenty-one days after receiving notice of the revocation or suspension of his licence, or, if there is an appeal, forthwith after the determination of the appeal and confirmation by the Court of the revocation or suspension of the licence, the licensee shall surrender the instrument of licence to the Board, by forwarding it to the Board.

(4) The powers of revocation and suspension conferred by this Part shall be deemed for the purposes of section 84 of the Act to be conditions attached to every licence issued under this Part.

PART II—MILK DELIVERY

16. In this Part of these regulations, unless the context otherwise requires,—

“Scheme” means a scheme provided under this Part of these regulations for regulating the delivery of milk in a zoning area by roundsmen:

“Zoning area” means a zoning area declared by the Board for the purposes of this Part of these regulations.

17. (1) The Board may by notice in the *Gazette* declare any area to be a zoning area for the purposes of this Part of these regulations and provide a scheme for that area and fix a date for the coming into force of the scheme:

Provided that no area or part of an area in which a scheme for regulating the delivery of milk by means of licences or otherwise under the Act is for the time being in force shall be included in a zoning area created for the purposes of this Part.

(2) Any scheme may provide that roundsmen shall not operate within the scheme except pursuant to a licence or other permit given by the Board:

Provided that, unless the existing rights of a roundsman are affected, no alteration in the names of those roundsmen entitled to operate within the scheme shall, for the purposes of subclause (3) of this regulation or regulation 20 hereof, be deemed to be a variation or amendment of the scheme.

(3) By a subsequent notice in the *Gazette* any such notice may from time to time be amended or revoked by the Board and the boundaries of the zoning area be changed and any term of the scheme be varied, revoked, or added to and the date of coming into force of the scheme be changed as the Board thinks fit.

18. No roundsman shall be deemed to be entitled to any vested interest or right under the provisions of any scheme, nor shall any scheme be deemed to create in favour of any roundsman any goodwill or special value in respect of the trade carried on by him in any particular area.

19. While any scheme is in force under these regulations no person shall, except as provided in the scheme, and whether as principal, agent, or otherwise, deliver milk in the zoning area in pursuance of a contract of sale, whether made within the area or elsewhere:

Provided that nothing in this regulation shall—

- (a) Apply upon a sale of milk by retail to the delivery on the roundsman's premises of the milk so sold:
- (b) Relieve any person from the obligation of complying with the provisions of any Act or of any other regulations.

20. (1) Within fourteen days after the notification of any scheme or of any amendment or variation or revocation thereof in the *Gazette*, any roundsman who is aggrieved thereby may object thereto in writing addressed to the Board.

(2) Every such objection shall specify the notice to which it relates, the objector's interest, the grounds upon which the objection is based, and the nature of the relief sought.

21. If the Board is of opinion that any objection should be sustained wholly or in part, it may give the objector an intimation to that effect setting out the terms of a proposed notice to give effect to the intimation, and the objector may by writing given to the Board within such time as the Board in its intimation prescribes elect to accept the proposed notice in satisfaction of its objection, and the Board may cause the proposed notice to be published in the *Gazette*, and the objection shall thereupon be deemed to be satisfied.

22. If the objector elects not to accept the proposed notice in satisfaction of his objection, or if the Board is of opinion that the objection should be wholly dismissed, the Board shall refer the objection to a subcommittee of three persons (one only of whom shall be a member of the Board and one of whom shall be nominated by the Dominion Federation of Milk Vendors) appointed for that purpose by the Board.

23. The subcommittee so nominated shall make such investigations as it thinks fit and shall consider such representations as may be made to it by the objector or any vendor who is named in and affected by the scheme, and for that purpose may adopt such procedure as in its discretion it thinks fit and, subject to regulation 18 hereof, shall take into account the following matters in relation to the objection:

- (a) The desirability of promoting and maintaining in every zoning area an economic system for the delivery of milk:
- (b) The desirability of allocating to a roundsman sufficient trade to enable him to enjoy a reasonable standard of living and satisfactory working conditions:
- (c) The degree to which the business efficiency of roundsmen is likely to be affected as a result of the notice to which the objection relates.

24. Whenever the Board determines to refer an objection to a subcommittee, it shall notify the objector to that effect.

25. The subcommittee shall advise the Board whether in the opinion of the subcommittee the objection should be sustained either wholly or in part.

26. In deciding to sustain or dismiss an objection the Board shall take into consideration the report of any subcommittee to which the objection has been referred pursuant to regulation 22 hereof, and may, if it thinks fit, refer the objection again to the subcommittee for a further

report, and in any case (whether the objection has been referred to a subcommittee or not) in which the Board is of opinion that the objection should be sustained, whether wholly or in part, it may by notice in the *Gazette* amend the notice to which the objection relates.

27. Pending the determination of any objection, addressed to the Board in accordance with regulation 20 hereof, every roundsman concerned or affected shall continue to supply milk to his customers as if no objection had been made.

28. The Board or any subcommittee acting under regulation 22 hereof may require any roundsman affected by this Part of these regulations to furnish from time to time such returns, statements, statistics, or other information relating to any milk and the sale and delivery thereof as the Board or the subcommittee may deem necessary for the proper administration of this Part, and may require any such information to be verified by statutory declaration.

29. (1) Any roundsman who is aggrieved by any decision of the Board under this Part of these regulations may appeal against the decision to a Magistrate's Court in accordance with subclause (2) of this regulation.

(2) Within fourteen days after the notification by the Board of any such decision, the appellant shall give notice of appeal to the Board and make application to a Magistrate's Court for an order reversing or varying the decision of the Board. The provisions of subsections (2) to (6) of section 71 of the Act (which relate to the hearing and determination of appeals against Milk Authorities) shall, with the necessary modifications, apply to every appeal under this regulation.

30. (1) Notwithstanding the provisions of any scheme under these regulations or the provisions of regulation 17 hereof, the Board, by notice in writing given to a roundsman, may approve of the delivery by the roundsman of milk to aged or infirm persons otherwise than as provided by the scheme.

(2) Any such approval may be subject to such conditions as the Board thinks fit, and may at any time by like notice be amended or revoked.

(3) Nothing in regulation 20 hereof shall apply to any such approval or amendment.

31. (1) The Board may by notice in the *Gazette* amend a scheme so as to exclude therefrom a roundsman named in and affected by the scheme in any of the following events:

(a) If the roundsman so requests:

(b) If during the period of twelve months immediately preceding any such revocation the roundsman has been convicted of any offence under these regulations or under the Control of Prices Act 1947, the Food and Drugs Act 1947, the Health Act 1920, the Marketing Act 1936, or the Milk Act 1944, or any regulation or bylaw made under any of those Acts:

(c) If the Board is satisfied that the roundsman has been party to a substantial breach of or non-compliance with any term or condition of the scheme or of these regulations:

(d) If the Board is of opinion that the said roundsman has failed to provide an adequate service for his customers.

(2) Whenever the Board so amends a scheme upon the request of the roundsman, the notice shall set out that fact.

(3) Nothing in regulation 20 hereof shall apply to any amendment of a scheme made under paragraph (a) or paragraph (b) of sub-clause (1) of this regulation.

32. (1) Nothing in these regulations shall affect the statutory functions, powers, or duties in relation to the delivery of milk of any Milk Authority constituted under the Act.

(2) All schemes relating to the delivery of milk and generally all acts of authority that originated or enured under the Milk Delivery Regulations 1949* and were subsisting or in force immediately before the commencement of these regulations shall enure for the purposes of this Part of these regulations as if they had originated under the corresponding provisions of this Part, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under the Milk Delivery Regulations 1949* and pending or in progress on the commencement of these regulations may be continued, completed, or enforced under this Part of these regulations.

33. In any proceedings for an offence against this Part of these regulations the production of a copy of the *Gazette* or an extract therefrom purporting to be printed by the Government Printer containing a notice providing for a scheme for the delivery of milk shall be *prima facie* evidence that the scheme has been made pursuant to or enures for the purposes of these regulations and that all requirements relating to the institution of the scheme have been fulfilled.

PART III—COMMITTEES OF SUPPLY

34. In this Part of these regulations, unless the context otherwise requires,—

“Committee of supply” means a committee of supply formed pursuant to a direction of the Board in accordance with section 92 (3) of the Act:

“Member association” means an association of milk producers approved by the Board under section 92 (1) of the Act:

“Nominated quantity” means the daily quantity of milk fixed by the Board as being the quantity necessary to supply the requirements of the area concerned.

35. This Part of these regulations shall apply in every case where, pursuant to subsection (3) of section 92 of the Act, the Board directs, or has, before the commencement of these regulations, directed, any producer associations to form a committee of supply.

36. (1) Where any committee of supply is or has been formed pursuant to any such direction as aforesaid, it shall be deemed to consist of the producer associations, being the associations to which the direction is or was given, as members.

(2) Every such association as aforesaid shall be represented on the committee of supply by such number of representatives, elected or appointed in such manner, as may be prescribed by the rules of the committee of supply.

(3) Subject to the provisions of this regulation, the committee of supply shall be constituted in such manner as may be prescribed by its rules.

37. (1) Subject to the provisions of this regulation, no committee of supply shall exercise any functions as such until the rules of the committee have been approved by the Board pursuant to this Part of these regulations.

(2) Any committee of supply that has been formed before the commencement of these regulations may continue to function as such so long as the rules of the committee are approved by the Board within three months after the commencement of these regulations.

(3) Every committee of supply to which subclause (2) of this regulation applies shall, within two months after the commencement of these regulations, submit to the Board for its approval a copy of its rules, or amended rules, which shall comply with the provisions of this Part of these regulations.

38. Subject to the provisions of subclause (2) of regulation 37 of these regulations, the Board shall not refuse its approval under this Part of these regulations, except on the ground that the rules or any of the provisions thereof are inconsistent with the Act or any regulations thereunder, or do not comply with this Part.

39. (1) The rules of every committee of supply shall specify or make provision for—

(a) The name of the committee:

(b) The names of the producer associations that are members of the committee:

(c) The number of representatives of each producer association on the executive of the committee and the procedure for their election or appointment:

(d) The procedure for the vacation of office of such representatives as aforesaid:

(e) The procedure for the election or appointment, and the vacation of office, of a chairman of the committee.

(f) The appointment of a secretary:

(g) The procedure for summoning and holding meetings of the committee and for the decision of questions arising at meetings:

(h) The proportion of milk that each member of the association shall be bound to contribute towards the nominated quantity:

(i) The steps to be taken to ensure that the nominated quantity of milk is provided in the event of any member failing to contribute its full proportion thereof:

(j) The imposition of penalties by the committee on any member failing to fulfil its obligations in respect of contributions towards the nominated quantity of milk:

(k) Such other matters as the Board may reasonably require for ensuring that the purposes of the committee are carried out or for ensuring compliance with the Act or any regulations thereunder.

(2) The rules of any committee of supply may make provision for—

(a) The approval by the committee of the terms and conditions of contracts between a member association and its suppliers:

(b) The methods of financing the activities of the committee.

(c) Such other provisions not inconsistent with the Act or any regulations thereunder as the committee thinks fit.

40. (1) No approval under section 92 of the Act approving a committee of supply as the Supply Association of a district shall be given until the rules of the committee have been submitted to and approved by the Board.

(2) With each application to the Board for its approval of the rules of a committee of supply there shall be submitted from each member association of the committee a certificate that each such association—

(a) Is an incorporated body;

(b) Has power to be a member of a committee of supply and to accept any obligations attaching to that membership; and

(c) Has complied with all formalities necessary for its inclusion in the membership of the committee.

41. Each member association shall be bound by all decisions, determinations, or resolutions of the committee of supply under or pursuant to the rules of the committee.

PART IV—BOTTLING OF MILK

42. (1) This Part of these regulations shall apply in such localities as the Minister, on the recommendation of the Board, may from time to time specify in that behalf by notice published in the *Gazette*.

(2) Any notice published under this regulation may in like manner from time to time be amended or revoked.

43. In any locality to which any notice published under regulation 42 hereof applies, no person shall sell or deliver milk to a consumer in a quantity of less than 1 gallon at one time unless the milk is contained in sealed bottles or other sealed containers of a type approved in that behalf by the Board and unless the provisions of any Act or regulations for the time being in force relating to the bottling of milk have been complied with.

44. It shall be the duty of the Board to ensure that the provisions of this Part of these regulations are complied with, and for that purpose it may authorise, under the provisions of section 108 of the Act, such Inspectors or officers of Government Departments, Milk Authorities, or local authorities to carry out such inspections and other functions as may be necessary.

45. (1) The Minister, on the recommendation of the Board, may exempt any person from the provisions of regulation 43 hereof or may modify the provisions of that regulation in respect of any person or any defined locality if he is of the opinion that any such exemption or modification is necessary or desirable.

(2) Any exemption granted under this regulation shall apply for such period and be subject to such terms and conditions as may be prescribed in the instrument of exemption.

(3) Any such exemption may at any time be revoked by the Minister, but while an exemption remains in force any person who complies with the terms and conditions prescribed in the instrument of exemption shall not be subject to the provisions of regulation 43 hereof, except so far as those provisions are applied in the said instrument.

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.

Part I relates to the direct sale of milk by producers. No direct sales shall take place except under a licence issued by the Milk Board. Provision is made for the application for and the terms to be included in any licence. Producers who sell to an approved association are not affected.

Part II makes provisions in respect of the delivery of milk. Provision is made for the declaration of zoning areas and the preparation and enforcement of milk delivery schemes.

Where a scheme is in force no person shall deliver milk in an area to which the scheme relates except in accordance with the scheme.

Part III relates to the constitution and functions of committees of supply formed pursuant to section 92 of the Milk Act 1944.

Part IV provides that in any locality specified in that behalf no milk in quantities of less than 1 gallon shall be sold or delivered otherwise than in sealed containers. Provision is made for modifying the restriction in appropriate cases.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 17 May 1956.

These regulations are administered in the Department of Agriculture.

(Notice No. Ag. 6106.)