

Serial Number 1947/43



**THE NEW-ZEALAND-GROWN VEGETABLES
REGULATIONS 1947**

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 26th day of
March, 1947

Present :

THE HON. H. G. R. MASON PRESIDING IN COUNCIL

PURSUANT to the Orchard and Garden Diseases Act, 1928, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

PART I.—PRELIMINARY

1. These regulations may be cited as the New-Zealand-grown Vegetables Regulations 1947.
2. Except as provided by Regulation 19 hereof, these regulations shall come into force on the 1st day of April, 1947.
3. In these regulations, if not inconsistent with the context,—
 - “ The said Act ” means the Orchard and Garden Diseases Act, 1928 :
 - “ Container ” includes every portable receptacle in which vegetables are cased, covered, enclosed, contained, or packed :
 - “ Director ” means the Director of the Horticulture Division of the Department of Agriculture :
 - “ Grower ” means a person engaged in the business of producing vegetables for sale :
 - “ Inspector ” means an Inspector appointed under the said Act :
 - “ Sell ” means to exchange for money or barter, and includes offering or exposing for sale, or sending or delivering for sale, or allowing to be sold or offered or exposed for sale ; and “ sale ” has a corresponding meaning :

“Vegetables” means the plants and edible products of plants hereinafter enumerated in the respective forms in which they are commonly offered for sale—that is to say, asparagus, bean, beetroot, Brussels sprouts, cabbage, carrot, cauliflower (including broccoli), celery, cucumber, kumara, leek, lettuce, marrow, melon (musk or rock or water), parsnip, pea, pumpkin, radish, rhubarb, silver beet, spinach, squash, swede, sweet corn, tomato, yam; but excludes any such vegetables when grown and intended solely for purposes other than human consumption.

“Wholesale vendor” includes every person other than a grower who sells vegetables by wholesale.

4. These regulations shall not apply to a sale of vegetables effected by retail and not in a container of a kind regularly used for sales of vegetables by wholesale.

5. These regulations shall not apply to vegetables grown elsewhere than in New Zealand.

6. The regulations made under the Orchard and Garden Diseases Act, 1908, on the 10th day of January, 1927, and published in the *Gazette* on the 20th day of the same month at page 137, and enuring under the said Act insofar as they relate to the packing of vegetables are revoked.

PART II.—REGISTRATION OF MARKS

7. The Director shall from time to time allot a distinctive registered mark—

(a) To every person who has made application for the registration of a commercial garden under the Commercial Gardens Registration Act, 1943, the registration of which is in force at the coming into force of these regulations:

(b) To every person who hereafter makes application for the registration of a commercial garden under the Act last aforesaid:

(c) To any other person who proposes, whether as grower or as wholesale vendor, to undertake the sale of vegetables in containers, and makes application to the Director for the allocation of a mark.

8. Every such registered mark shall, in the discretion of the Director, consist of letters or numerals, or a combination of letters and numerals.

9. The Director shall maintain a register of marks in which is recorded in respect of each mark the name, occupation, and address of the person to whom the mark is allotted so far as known to the Director, together with an alphabetical index of names of such persons.

10. The said register may be kept in book form or, if reasonable precautions be taken against abstraction of leaves or cards, may be kept in loose-leaf form or card form.

11. The register shall be open for inspection by all persons at the office of the Director during ordinary business hours.

12. The Director shall notify in writing to every person to whom a registered mark has been allotted particulars of the mark so allotted.

13. The Director shall on the written application of the person to whom a mark was allotted, and on being satisfied of the correctness of that application, make any necessary alteration of occupation or address in the register.

14. The Director may by entry in the register to that effect cancel the registration of a mark at the request in writing of the person to whom it was allotted, or of the legal personal representatives or assignees in bankruptcy of that person, and may thereafter allot the same mark to the nominee of the person requesting cancellation.

15. (1) The Director may at any time, by registered post letter sent to the person to whom a mark was allotted at the address recorded in the register, give notice of his intention to cancel the registration of the mark upon a ground to be stated in the notice, being one of the grounds hereinafter specified, unless within three weeks after the notice is given sufficient reason is shown to the contrary to the satisfaction of the Director, and at the expiration of the said three weeks the Director, unless satisfied to the contrary, shall cancel the registration accordingly.

(2) Any such notice shall be deemed to be given at the time at which it would be delivered or available for delivery in the ordinary course of registered post.

16. The registration of a mark may be cancelled under the last preceding regulation on any of the following grounds—

- (a) That the registration was effected in error :
- (b) That the person to whom it was allotted has not used the mark during the period of two years next preceding the time when the notice was given :
- (c) That the person to whom it was allotted is deceased or has ceased to carry on business :
- (d) That for any other sufficient reason the registration ought to be cancelled.

17. The cancellation of registration of a mark shall not affect the right of any person to apply for a further allotment of a mark under Regulation 7 hereof.

18. Except where he thinks the circumstances warrant such a course, the Director shall not be required to allot more than one registered mark to the same person.

PART III.—BRANDING OF CONTAINERS

19. Part III of these regulations shall come into force on the 1st day of July, 1947.

20. No grower or wholesale vendor shall sell any vegetables in a container if there is not either borne upon the container in manner herein prescribed, or upon a label attached to the container and complying with the requirements hereinafter set out, a brand comprising the particulars set out in this Part of these regulations.

21. No grower or wholesale vendor shall pack for sale or sell vegetables of more kinds than one in one container :

Provided that this regulation shall not apply so as to prohibit the packing for sale or selling in one container of (a) cauliflower and broccoli or (b) pumpkins and squash respectively.

22. Every brand required by Regulation 20 hereof shall comprise the following particulars, namely :—

- (a) The registered mark allotted pursuant to Part II hereof to the grower or wholesale vendor by whom the vegetables are sold :
- (b) The name of the vegetable in the container.

23. Every brand may at the discretion of the grower or wholesale vendor also comprise the following particulars, namely:—

- (a) The name and address of the grower or wholesale vendor:
- (b) The net weight of the vegetables in the container:
- (c) The number of vegetables in the container.

24. All particulars required or permitted to be included in a brand shall appear in legible bold-faced sans-serif capital characters of a height not less than $\frac{3}{8}$ in. (save that the name and address of the grower or wholesale vendor if included may appear in characters of not less than $\frac{1}{8}$ in.), and all such particulars shall be so arranged that no part of the particulars is capable of being confused with any other part of the particulars and so that no part of the brand obscures or conceals any other part of the brand.

25. All particulars included in a brand borne on a container shall appear—

- (a) If the container is made of wood or cardboard on one end of the container:
- (b) In any other case, then in some prominent position on the container.

26. Every label attached to a container for the purposes of Regulation 20 hereof shall be securely affixed to the container by paste or similar means or securely tied to the container.

27. No person shall use so as to take effect as a label for the purposes of these regulations any label containing matter printed, stamped, stencilled, or similarly applied to the label unless such printing, stamp, stencil, or similar matter has been approved in writing by the Director.

28. A wholesale vendor selling vegetables in the same container in which he received the vegetables (the container when received by him having been duly branded with a brand complying with the requirements hereinbefore specified, and the vegetables if removed from the container having been repacked therein) shall sell such vegetables with the brand aforesaid remaining on or affixed to the container, but shall add to the brand his own registered mark adjacent to the registered mark already included in the brand.

PART IV.—PACKING OF VEGETABLES

29. For the purpose of Part IV of these regulations the term “vegetables” as defined in Regulation 3 hereof includes the edible product of the plants onion and potato.

30. All vegetables packed in a container shall be so packed that any vegetable which is exposed to view or which would be exposed to view if the container were opened in a normal manner fairly and substantially represents in size, maturity, quality, and condition the whole contents of the container.

31. No person shall sell, whether on his own account or as agent, any vegetables in a container which has not been packed in compliance with this Part of these regulations.

PART V.—EXAMINATION AND INSPECTION OF VEGETABLES

32. An Inspector may at any time enter any premises or place for the purpose of inspecting any vegetables intended for sale which he has reasonable grounds for believing to be vegetables subject to the provisions of these regulations with a view to ascertaining whether the requirements of these regulations with respect to such vegetables have been complied with.

PART VI.—OFFENCES

33. Every person commits a breach of these regulations and is liable accordingly who—

- (a) Fails to observe or perform any duty directly or by implication imposed upon him by these regulations ; or
- (b) Does anything contrary to the provisions thereof ; or
- (c) Alters or obliterates, wholly or partially, or causes to be altered or obliterated, any registered mark or other particulars required or authorized to be branded on any container pursuant to these regulations ; or
- (d) Improperly brands or otherwise impresses on any container of vegetables or on any tag or label attached or affixed thereto any registered mark or other mark purporting to be the mark of any registered owner ; or
- (e) Counterfeits any mark used in pursuance of these regulations ; or
- (f) Affixes to any container of vegetables or to any label or tag attached or affixed to the container any counterfeit mark ; or
- (g) Empties or partially empties or otherwise interferes with the contents of any container of vegetables branded pursuant to these regulations in order to put therein or substitute therefor any other vegetables ; or
- (h) Refuses to give information or gives false information in answer to any inquiry made by an Inspector in the performance of his duty under the said Act or these regulations.

T. J. SHERRARD,
Acting Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 27th day of March, 1947.

These regulations are administered in the Department of Agriculture.

(Notice No. Ag. 4398.)