

1965/227



THE WHEAT BOARD REGULATIONS 1965

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 20th day of December 1965

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to the Wheat Board Act 1965, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations:

REGULATIONS

PART I—PRELIMINARY

1. Title and commencement—(1) These regulations may be cited as the Wheat Board Regulations 1965.

(2) These regulations shall come into force on the first day of February 1966.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Wheat Board Act 1965:

“Authorised broker” means a broker authorised by the Board under these regulations:

“Milling standard wheat” means wheat which is sound and sweet, free from smut, free from decay, free from damage by insect pests injurious to baking quality, and free from any other blemish or damage, and which does not contain—

(a) More than 15·5 per cent, by weight, of moisture; or

(b) More than 2·5 per cent, by weight, of weed seeds and other extraneous matter and broken, immature, or shrivelled grains; or

(c) More than 0·5 per cent, by weight, of weed seeds and other extraneous matter;

and which when gristed—

(d) Yields flour with a baking score of 28 or higher as determined by a testing method equivalent to that used by the Wheat Research Institute in the year 1963; and

(e) Does not have a sprout index of greater than S3 as determined by the Wheat Research Institute test:

“Wheat Research Institute” means the Wheat Research Institute of the Department of Scientific and Industrial Research.

(2) For the purpose of determining whether or not any wheat is milling standard wheat, the following provisions shall apply:

- (a) The amount of weed seeds and other extraneous matter contained in the wheat shall be determined by screening a representative sample of the wheat over a suitable sieve and by handpicking from the sample larger weed seeds and other extraneous matter:
- (b) The amount of broken, immature, and shrivelled grains in the wheat shall be determined by screening a representative sample of the wheat over a $5\frac{1}{2}$ A metal sieve having slotted holes $1\frac{1}{4}$ in. \times $\frac{1}{2}$ in. with approximately 1,500 slots per square foot:
- (c) Where sacks are used for packing the wheat, the sacks shall be either sound, clean, once-shot 46 in. \times 23 in. sacks, or sound, new, 46 in. \times 23 in. standard New Zealand cornsacks, free from holes or other damage.

PART II—DEALINGS IN WHEAT

3. Purchase and sale of free wheat—Subject to the provisions of section 29 (2) of the Act, any person may sell or purchase free wheat in such manner and on such terms and conditions as he thinks fit.

4. Wheat which may be sold otherwise than to the Board—Wheat which the Board may, by resolution, exclude from the provisions of section 26 of the Act shall be—

- (a) Wheat grown in any area specified in the resolution in any one or more seasons so specified:
- (b) Wheat grown from seed of recognised merit and defined in the resolution:
- (c) Wheat grown in any season before the season for the time being current:
- (d) Wheat of a quantity specified in the resolution and actually grown by the wheatgrower by whom it is sold.

5. Authorised brokers—(1) The Board may from time to time authorise in writing brokers for the purpose of purchasing and selling wheat on behalf of the Board and, subject to the provisions of these regulations, every such broker shall act in accordance with the directions of the Board.

(2) Every broker shall, before his appointment becomes effective, give to the Board such security as the Board may require for the due performance of his duties and compliance with these regulations.

(3) In respect of every contract for the purchase of wheat by an authorised broker on behalf of the Board the broker shall be entitled to receive from the Board a commission of $1\frac{3}{4}$ d. for every bushel delivered in pursuance of and in conformity with that contract.

(4) In respect of every contract for the sale of wheat by an authorised broker on behalf of the Board the broker shall be entitled to receive from the Board a commission of $1\frac{3}{4}$ d. for every bushel delivered in pursuance of and in conformity with that contract.

(5) Where the Board employs an authorised broker in connection with the sale of wheat for export, it may in its discretion pay to the broker, in addition to or in substitution for the commission authorised by subclause (4) of this regulation, reasonable remuneration for his services in respect of that employment.

(6) It shall be unlawful—

(a) For an authorised broker to receive, directly or indirectly, any commission or remuneration from any person other than the Board in respect of any contract entered into on behalf of the Board:

(b) To give, offer, or promise to any person any rebate, refund, commission, allowance, gratuity, or other valuable consideration as an inducement to that person to sell or purchase wheat to or from the Board through that broker or for the reason that he has so sold or purchased wheat:

(c) For any person to give, offer, or promise to an authorised broker any allowance, gratuity, or other valuable consideration as an inducement to that broker to sell or purchase on behalf of the Board wheat to or from that person or any other person or for the reason that the broker has so sold or purchased wheat.

(7) Every authorised broker shall from time to time make to the Board such returns in respect of the business done by him on behalf of the Board as the Board may require.

6. Milling standard wheat—(1) Where the Board purchases from or sells to any person any wheat which, by reason of the fact that it contains more than 15·5 per cent, by weight, of moisture, or more than 2·5 per cent, by weight, of weed seeds and other extraneous matter and broken, immature, or shrivelled grains, or more than 0·5 per cent, by weight, of weed seeds and other extraneous matter, is not milling standard wheat, the provisions of this regulation shall apply.

(2) Where any such wheat is purchased by the Board, the weight of the wheat shall, with the consent of the grower and for the purpose of equating the price of the wheat with the price of milling standard wheat, be calculated by excluding from the total weight the weight of—

(a) Any moisture in excess of 15·5 per cent, by weight; and

(b) Any weed seeds and other extraneous matter in excess of 0·5 per cent, by weight; and

(c) Any weed seeds and other extraneous matter and any broken, immature, or shrivelled grains in excess of 2·5 per cent, by weight:

Provided that in calculating the amount to be deducted under this paragraph, there shall be taken into account only half of the weight present between 2·5 per cent and 5·0 per cent, and any amount already deducted under paragraph (b) hereof shall be taken into account when assessing the proportion of 2·5 per cent referred to in this paragraph.

(3) The Board may vary the charge to the purchaser and the payment to the grower so as to take account of any weight adjustments made pursuant to this regulation.

(4) All weed seeds and other extraneous matter and all broken, immature, and shrivelled grains in respect of which any such weight deduction is made shall become the property of the purchaser and the grower shall not be entitled to payment therefor.

(5) A 1 lb sample representative of the wheat offered by the grower shall be forwarded to the miller to whom the wheat is offered for sale, or, if required by the Board, to the Board, as a basis of purchase, but weight deduction or rejection of the wheat shall be determined in respect of the bulk delivery. If after purchase and when the wheat is delivered it is found that the bulk is not in accordance with the sample, the miller or the Board shall have the right either to reject the wheat or, subject to the consent of the grower, take it into store and make such necessary adjustments in respect of weight deductions in accordance with this regulation as will equate the price of the wheat with the price of milling standard wheat.

(6) The miller or the Board may require that the results of a test shall accompany each sample as a guide to the baking quality of the wheat, and the cost of any such test shall be borne and paid for by the miller so requiring it, or in the case of the Board so requiring it, by the Board.

(7) Notwithstanding anything in these regulations, the Board, with the consent of the Minister, may, in seasons of special difficulties, accept wheat as milling standard wheat which does not have a sprout index of greater than S10 as determined by the Wheat Research Institute test, and any provision of these regulations relating to milling standard wheat shall apply as if the wheat accepted as aforesaid were milling standard wheat.

7. Purchase of wheat by broker—(1) Subject to the provisions of this regulation, an authorised broker shall not purchase wheat on behalf of the Board unless a purchaser is available to purchase the wheat from the Board.

(2) Any wheat purchased by a broker as aforesaid shall be purchased on condition that the seller shall deliver the wheat to a purchaser from the Board as directed by the broker, whether free on board, free on rail, direct to the purchaser's store, or otherwise.

(3) The name of the purchaser from the Board and the place and method of delivery shall be stated in the contract made between the seller and the broker on behalf of the Board.

(4) No authorised broker shall accept delivery of wheat, or act as a warehouseman of wheat, on behalf of the Board.

(5) Notwithstanding the foregoing provisions of this regulation, in special circumstances and in accordance with the express directions of the Board, an authorised broker may purchase or accept delivery of wheat otherwise than in accordance with this regulation but on such terms and conditions as may be specified by the Board.

8. Delivery of wheat—(1) Where wheat is sold to the Board through the agency of an authorised broker without express agreement as to the time of delivery, it shall be deemed to be sold for delivery in the month in which the contract is made.

(2) Where wheat is sold as aforesaid for delivery by instalments at different times or on different terms or conditions, the sale of each instalment or of each parcel to which separate terms or conditions apply shall be deemed to be a separate contract.

(3) All wheat purchased by the Board shall, on delivery thereof in accordance with the contract and subject to the terms of the contract, become as between the seller and the Board the property of the Board without prejudice to any rights of property between the Board and a purchaser from the Board.

9. Payment for wheat purchased by Board—Payment for wheat purchased by the Board shall be made as follows:

- (a) On delivery by the seller, the authorised broker, if satisfied that the wheat delivered is in accordance with the contract, shall forward to the Board a voucher in such form as the Board may require, signed by the broker and authorising payment of the contract price:
- (b) The sum so authorised shall be remitted by post by the Board to the seller or to any other person (including an authorised broker) authorised in writing by the seller as his agent in that behalf:
- (c) No part of the contract price payable by the Board to a seller shall be assignable or charged otherwise than by operation of law:
- (d) Payment shall be remitted within 21 days after the receipt of the voucher by the Board.

10. Payment for wheat sold by the Board—(1) Payment for wheat sold by the Board shall be made to the authorised broker on behalf of the Board on terms providing for cash on delivery, cash against shipping or transport documents, or cash within seven days after delivery, as may be agreed upon between the buyer and the broker.

(2) All purchase money unpaid after the due date of payment shall bear interest at such rate, not exceeding 8 per cent per annum, as may be determined in each case by the Board, and any such interest shall be payable on demand and may be recovered as a debt due to the Board.

(3) Where wheat is sold for delivery by instalments, the provisions of this regulation shall apply as if each instalment were the subject of a separate contract.

(4) All money received by an authorised broker in respect of any contract for the sale of wheat on behalf of the Board shall be paid by him to the Board forthwith on receipt thereof, and all money not so paid shall bear interest at such rate, not exceeding 8 per cent per annum, as the Board in each case shall determine and may be recovered by the Board accordingly.

(5) If default is made by any purchaser of wheat from the Board in payment of the purchase price, the broker by whose agency the sale was made shall be liable to the Board for the amount of purchase money due together with any interest due on the unpaid purchase money.

(6) After delivery to the buyer, the wheat shall in all respects be at the buyer's risk, but the property in the wheat shall not pass to the buyer until the purchase money has been received by the broker.

(7) Every contract made by an authorised broker for the sale of wheat on behalf of the Board shall be in accordance with and shall be deemed to incorporate the provisions of this regulation.

11. Use of wheat purchased from Board—Except in accordance with the terms and conditions of a consent in writing given by the Board—

- (a) No person shall manufacture wheat into wheat products for sale for human consumption except wheat sold by the Board to that person for that purpose:
- (b) No person, having bought wheat from the Board for the manufacture for sale of wheat products for human consumption, shall use that wheat for any other purpose.

12. Disputes—(1) If any dispute arises as to whether or not any wheat offered to an authorised broker for sale to the Board is milling standard wheat, or if any dispute arises as to whether or not any weight deductions to equate the price of the wheat to milling standard wheat have been properly made, or if any dispute arises as to whether or not any wheat delivered in fulfilment of any contract of purchase or sale entered into by an authorised broker on behalf of the Board is in accordance with the contract in respect of kind, quality, or condition, the dispute shall be determined by a grader authorised by the Board, whose decision shall be final and binding on all parties to the dispute:

Provided that if any such dispute relates to the moisture content or the milling or baking quality of the wheat, the dispute shall be determined by the Director of the Wheat Research Institute, whose decision shall be final and binding on all parties to the dispute.

(2) In any dispute under this regulation, samples shall be drawn in accordance with any method acceptable to the Board.

(3) If any other dispute arises between the parties to any contract entered into by an authorised broker on behalf of the Board, or between an authorised broker and the Board, or between an authorised broker and any seller or purchaser of wheat to or from the Board, relating to any matter concerning the functions and powers of the Board, the dispute shall be determined by arbitration under the Arbitration Act 1908, and this subclause shall be deemed to be a submission within the meaning of that Act.

(4) Subject to the provisions of this regulation as to the settlement of disputes, the following weights shall be accepted by all parties as the basis of settlement in all contracts for the purchase or sale of wheat by or to the Board:

- (a) For wheat delivered direct to a mill—flourmiller's weights:
- (b) For wheat delivered free on board—customary free-on-board weights:
- (c) For wheat delivered ex store to mills or free on board—ex-store weights:
- (d) For wheat delivered into store—into-store weights:
- (e) In all other cases—such weights as may be from time to time determined by the Board.

(5) The only deductions which may be made from any such weights shall be the customary tare per sack or deductions made in accordance with these regulations for the purpose of equating the price of wheat to the price of milling standard wheat.

13. Returns—(1) Every grower of wheat shall, when required to do so by notice published by the Board, make a return to the Board showing as at a date specified in the notice—

- (a) The number of bushels of each variety of wheat grown by him in the season to which the notice relates; and
- (b) The number of bushels of each variety of wheat so grown by him but not at the date of the return sold and delivered.

(2) Every manufacturer of wheat products for human consumption carrying on business in New Zealand shall, on or before the 7th day of each month, make to the Board a return showing full particulars of all wheat purchased by him and of all wheat delivered to him during the last preceding month pursuant to purchases made by him and particulars of his stocks of all such wheat and of flour on hand on the last day of that month.

(3) The Board, or its duly authorised representative, may require any person to give to it any information in that person's possession, and to produce any books or documents in his possession or under his control, relating to the sale, purchase, transport, or storage of any wheat, whether grown in New Zealand or elsewhere, and of whatever season's crop, and whether that person is a party to the sale or purchase or not.

(4) All returns under this regulation shall be in such form as the Board from time to time notifies in that behalf.

(5) Every manufacturer of wheat products for human consumption shall permit any officer of the Board, or any other person appointed by the Board for the purpose, at all reasonable times to take samples of wheat in the possession of the manufacturer or held by any person on his behalf.

14. Seed wheat—(1) An authorised broker may, with the permission of the Board, purchase on his own account from the Board wheat as seed wheat at the appropriate price notified by the Board under the Act.

(2) No commission shall be payable to the broker in respect of any dealings in wheat under this regulation.

(3) The broker shall pay to the Board the purchase money of all wheat purchased by him under this regulation in cash on the delivery of the wheat to the broker.

(4) Except with the permission of the Board, it shall not be lawful for a broker who has purchased seed wheat under this regulation to dispose of the wheat otherwise than by sale as seed wheat to farmers.

(5) If with the permission of the Board a broker at the end of the season for sowing disposes of the balance of his stock of seed wheat in some other manner and at a price lower than the price at which he acquired the wheat, the Board may reimburse him for the loss incurred on the sale to the extent to which, in the opinion of the Board, his acquisitions of seed wheat were justifiable.

15. Export of wheat—No wheat sold by the Board for export from New Zealand shall be resold within New Zealand without the approval of the Board.

16. Compensation scheme—(1) In this regulation, unless the context otherwise requires—

“Flood damage” means damage resulting from the overflow of water from a natural watercourse or from abnormal flow of drainage water from higher ground; and “flood” has a corresponding meaning:

“Normal yield” means the yield in bushels to the acre which in the opinion of the committee established under subclause (7) of this regulation or, as the case may be, in the opinion of the Board a paddock would have averaged in the particular season taking into consideration weather (except the weather causing the damage giving rise to the claim for compensation) and all other circumstances had the damage for which compensation is claimed not occurred:

“Paddock” means an area sown in wheat which, in the opinion of the Board, is treated as a single unit of cultivation, notwithstanding that it may be intersected by watercourses, roads, or other physical features, and notwithstanding that it may not be physically separated from any other unit of cultivation.

(2) There is hereby established a Fund to be called the Wheatgrowers' Compensation Fund.

(3) There shall be paid into the Fund all amounts paid by way of levy under paragraph (a) of subclause (1) of regulation 33 of these regulations and all money transferred to the Board under section 31 (2) of the Act.

(4) The Board may deduct from the Fund and pay into the Wheat Industry Account all costs and expenses incurred by it in the administration of this regulation.

(5) Every grower of wheat for sale whose crop from any paddock suffers from—

- (a) Frost damage; or
- (b) Hail damage; or
- (c) Flood damage—

to the extent that the yield from that paddock is less than two-thirds of the normal yield shall be entitled to claim and be paid compensation under this regulation:

Provided that if all claims under this regulation in any season exceed a total of £30,000, the amounts payable to claimants under this regulation shall be reduced, in the appropriate proportions, by such amounts as will provide a total payment to claimants for the season of £30,000.

(6) Subject to the provisions of this regulation, no claim for compensation under this regulation shall be allowed unless—

- (a) The crop is harvested at or the land is occupied by the crop until the normal time of harvest or until such earlier time as the Board authorises in any particular case:
- (b) The loss occurred after the 1st day of November in any year in respect of a crop planted in that year:

Provided that the Board may, in its discretion, allow a claim to be made in respect of a loss occurring before that date:

- (c) The claimant gives written notice to the Board setting out the date and nature of the occurrence giving rise to the loss not later than 14 days after the damage could reasonably be expected to become manifest:

- (d) The claimant notifies the Board in writing of the date on which he estimates the crop will be ready for harvest not more than 28 nor less than 14 days before that date:
- (e) The damage, if caused by flood, was not in the opinion of the Board due to negligent farming, neglect of watercourses, or other negligence on the part of the claimant.
- (7) Every claim under this regulation shall be considered by a committee consisting of an adjuster appointed by the Board and an assessor appointed by the Board on the nomination of a local electoral committee member of United Wheatgrowers (N.Z.) Ltd.
- (8) As soon as practicable after the crop to which a claim relates is harvested or the time for harvesting is passed and the yield (if any) is ascertained, the committee shall report to the Board its opinion as to—
- (a) The normal yield of the paddock:
 - (b) The actual yield of the paddock:
 - (c) The extent of loss suffered by the claimant:
 - (d) The amount of compensation that would place the claimant in the same position as if the proceeds of the actual yield had been two-thirds of the proceeds of the normal yield:
 - (e) Whether or not the claim is within the provisions of subclause (5) of this regulation or should be disallowed under subclause (6) of this regulation.
- (9) The Board shall consider the report and, in its discretion, allow the claim in accordance with the report or disallow so much of the claim as it considers erroneous.
- (10) The committee may receive as evidence any statement, document, information, or matter which may in its opinion assist it to deal effectually with the matter before it, whether or not the same would be admissible in a court of law.
- (11) If the members of the committee disagree on any matter in respect of which the committee is required to make a report, the report of the committee shall state this fact, and each member of the committee shall forward a separate report on the matters in respect of which there is disagreement.
- (12) In the event of the incapacity of any member of the committee the Board may appoint another qualified person in his place.
- (13) The claimant shall permit any person authorised in that behalf by the Board to take such samples as may be required for the purposes of determining any claim.
- (14) The decision of the Board in respect of any claim under this regulation shall be final and binding on all persons affected by the decision. In making any such decision, the Board may allow a claim notwithstanding that any provision of subclause (6) of this regulation has not been complied with.

PART III—DEALINGS IN FLOUR

17. Provision as to sale of flour otherwise than through agency of Board—(1) Every miller gristing wheat and selling flour under the authority of section 33 (4) of the Act shall, not later than the third day of every month, supply to the Board particulars of all wheat so gristed and all sales of flour so made during the last preceding month.

(2) In computing sales of flour for the purposes of the monthly quota fixed under section 35 (1) of the Act in respect of any miller, all sales by that miller to which subclause (1) of this regulation relates shall be taken into account as if they had been sales of flour effected by the Board as part of that monthly quota.

(3) Any consent given by the Board under section 33 (4) of the Act may at any time be revoked by notice given by the Board to the miller concerned.

18. Quotas—If in any case the Board is of the opinion that sufficient stocks of wheat and flour are not being stored in any mill to provide a reasonable carry over of stock for the next ensuing season the Board may reduce the monthly quota fixed under section 35 (2) of the Act in order that a reasonable carry over of stocks of wheat and flour be provided for the next ensuing season.

19. Sales of flour—(1) The Board shall, in every month, endeavour to sell on behalf of every miller an amount of flour equivalent to the amount fixed as the monthly quota for the mill of that miller.

(2) Where the Board in any month oversells or undersells flour on behalf of a miller, the Board shall, as far as practicable, adjust the sales on behalf of that miller in subsequent months so as to equate sales for those months with the quota.

(3) Where a subagent of the Board purchases flour, the subagent shall resell the flour only at such prices and on such terms as the Board notifies and the subagent shall account to the Board for all proceeds of any such resale except such proceeds as he is permitted to retain by the Board.

(4) Every miller shall, on receiving notice from the Board, deliver all flour sold by the Board on his behalf at such places of delivery to such persons at such times in such quantities and generally in such manner as the Board may reasonably require.

20. Special purpose flour—With the approval of the Board and subject to such terms and conditions as the Board thinks fit to impose, any miller may dispose of any flour manufactured by him, and which the Board is satisfied will be used for a special purpose, otherwise than through the agency of the Board. Any such flour shall not, if the Board so determines, be taken into account as part of the quota fixed under section 35 of the Act in respect of the mill from which the flour is produced.

21. Retail sale by millers—(1) Any miller may grist wheat and effect retail sales for cash at his mill premises of a total amount of flour not exceeding 10 tons in any month.

(2) Any such sale need not be effected through the agency of the Board.

(3) Any flour sold under this regulation shall be taken into account as part of the quota for the mill fixed under section 35 of the Act.

22. Provisions incorporated in contracts—The following provisions shall be deemed to be incorporated in every contract, whether oral or written, for the sale of flour effected through the agency of the Board:

- (a) It shall be the duty of the purchaser to inspect the flour immediately upon its receipt in his storehouse or bakery.
- (b) If the purchaser has any complaint or dissatisfaction in respect of the sale or the condition of the flour, he shall forthwith lodge a complaint, by telegram or in writing, with the officer or agent of the Board through whom the flour was purchased. The Board shall forthwith give notice of the complaint to the miller from whom the flour was purchased:
- (c) The complaint shall be investigated by the Board and the miller. If the complaint relates to the quality of the flour, it shall be referred to the Wheat Research Institute which shall investigate the matter and report to the Board. The purchaser shall facilitate every such investigation and comply with all reasonable requests by the Board, the miller, or the Wheat Research Institute for the purposes of the investigation:
- (d) Where any such complaint is made, the flour to which it relates shall not be used by the purchaser without the consent of the Board and the miller concerned:
- (e) Any claim which the purchaser considers he is entitled to make shall be made in writing to the General Manager of the Board within four days after the claim is lodged: The amount of any claim made to the General Manager as aforesaid need not be specified at the time of making the claim but shall be notified to the General Manager as soon as practicable after it is reasonably ascertainable:
- (f) Compliance with the foregoing provisions of this regulation shall be a condition precedent to any effective claim in respect of any such flour and non-compliance or non-performance of any such provision shall be a defence to any claim by the purchaser for the alleged breach of any express or implied terms, conditions, or warranties relating to the sale of flour through the agency of the Board.

23. Liabilities arising on sale of flour—(1) Subject to the provisions of these regulations, the Board shall be liable for the payment of any amount owing for flour sold through the agency of the Board.

(2) The Board shall not be liable for any failure to effect a sale of flour if the failure is due to the inferior quality of the flour or the sacks in which it is contained or the failure of the miller to comply with any provision contained in a contract of sale.

(3) Any legal proceedings taken by the Board upon a contract made by the Board on behalf of a miller may be taken in the name of the miller.

(4) If the Board is the defendant in any legal proceedings relating to a contract for the sale of flour, or if in any legal proceedings instituted by the Board under any such contract a counterclaim is made, the Board may, in its discretion, join in the proceedings, as co-defendant, third party, or otherwise, the miller on whose behalf the contract was made.

(5) The Board may in any case elect not to institute or defend legal proceedings arising out of any such contract and, in any such case, the miller on whose behalf the contract was made shall be entitled to institute or defend any such proceedings on his own behalf and at his own expense. If the Board is made a party to any such proceedings, the miller shall indemnify the Board against all costs and expenses to which the Board may be liable in the proceedings.

(6) Where any legal proceedings are instituted or defended by the Board and no issue arises in the proceedings as to the quantity or the quality of the flour or otherwise relating to the flour which is the subject of the contract to which the proceedings relate and if no breach of contract on the part of or affecting the miller is alleged, the miller shall be entitled to be indemnified by the Board in respect of all costs and expenses arising out of the proceedings.

(7) Where any legal proceedings are instituted or defended by the Board or any claim is made against the Board arising out of or in any way connected with a contract for the sale of flour by the Board on behalf of a miller and an issue arises as to the quantity or the quality of the flour or otherwise relating to the flour or if any breach of contract on the part of or affecting the miller is alleged, all costs and expenses incurred by the Board in respect of the proceedings or in investigating the claim shall be paid to the Board by the miller on whose behalf the contract was made.

24. Provisions where miller fails to make delivery—If any miller fails to make delivery as required by subclause (4) of regulation 19 of these regulations of any flour sold on his behalf and comprised in his monthly quota,—

- (a) The Board may substitute for the flour not delivered flour of any other miller, and enter into a new contract of sale with the purchaser:
- (b) The miller in default shall be liable to pay to the Board all claims, losses, and expenses arising out of the default or the entering into of a new contract of sale:
- (c) Any flour substituted under paragraph (a) of this regulation shall be deemed to be additional to the monthly quota of the miller on whose account the substituted flour is sold:
- (d) The Board shall reduce his monthly quota for the next month or subsequent months by such amounts as will aggregate the quantity of flour in respect of which default was made.

25. Accounts and payments—(1) In every month the Board shall send to every miller an account of all sales of flour and other transactions effected by the Board as the agent of the miller and shall, before a day in that month determined by the Board in that behalf, pay to the miller the amount shown by the accounts to be due to him.

(2) The Board shall be entitled to charge against any miller and deduct from any amount payable to him such sums as the Board may from time to time determine to cover the costs of its administration of Part IV of the Act and of this Part of these regulations and any amount required for payment into any fund referred to in section 32 (2) of the Act.

(3) Any amount deducted under subclause (2) of this regulation shall be proportionate to the amount of flour sold by the Board on behalf of the miller.

(4) The Board may make such adjustments in its accounts with any miller as will provide for the payment of any sums owing by the miller to the Board or by the Board to the miller.

26. Books and records—(1) Every miller shall keep costing accounts relating to his flourmilling business in a form approved by the Department of Industries and Commerce.

(2) Every miller shall keep at his mill or some other convenient place notified to the Board such books and records as the Board may notify or require.

(3) Any such books and records shall at all reasonable times be open for inspection by an officer of the Board authorised in that respect.

(4) Every miller shall, upon request, supply to the Board such information as it may require in relation to wheat purchases and flour manufactured or delivered by the miller.

27. Grading of flour—(1) The Board may from time to time determine grades of flour and shall determine a grade as the minimum grade below which no flour shall be sold for manufacture into bread.

(2) Every miller shall permit any authorised officer of the Board and any expert appointed by the Board in that behalf at all reasonable times to take samples of flour under the control of the miller for the purposes of grading under this regulation.

(3) If the Board is of the opinion that any flour is below the minimum grade referred to in subclause (1) of this regulation, the Board shall notify the miller and appoint an independent expert to report on the quality of the flour. A copy of the report shall be supplied to the miller.

(4) If the report is to the effect that the flour is below the said minimum grade, the Board may reduce the monthly quota fixed in respect of the mill concerned to the extent of the amount of flour that is below the minimum grade, and may increase proportionately the monthly quotas fixed in respect of all other mills.

(5) The Board on application by any miller whose quota has been reduced under subclause (4) of this regulation may, if it is satisfied that the mill is producing sufficient flour above the aforesaid minimum grade to fill its monthly quota, restore the monthly quota of that mill and make corresponding adjustments to the quotas increased under subclause (4) of this regulation.

(6) Every independent expert appointed for the purposes of this regulation shall, where practicable, be a person nominated by the Wheat Research Institute.

(7) Any costs incurred in respect of the engagement of any such expert shall be borne by the Board, but if the report of the expert is to the effect that the flour reported on is below the minimum grade referred to in subclause (1) of this regulation, all such costs may be recovered by the Board from the miller concerned as a debt due to the Board.

28. Interruption of supply—(1) If the manufacture of flour in any mill is seriously interfered with owing to damage to the mill caused by fire, earthquake, tempest, flood, or other physical cause or owing to any strike, lockout, or civil disturbance, the miller shall forthwith give notice thereof to the Board.

(2) For as long as any such serious interference continues the miller shall not be bound to comply with the provisions of subclause (4) of regulation 19 of these regulations as to the delivery of flour and the provisions of regulation 19 of these regulations shall not apply to the miller.

(3) During any such period the Board may fix a reduced quota or refrain from fixing a quota or fix the same quota in respect of the mill and adjust or carry forward for adjustment the undersales of the miller during the period of interruption of supply. The Board may arrange for the quantity of flour which would normally be supplied from the mill to be supplied from other mills in addition to the quotas allocated to those mills.

29. Loss of flour during transit—(1) Unless otherwise agreed between the parties, it shall be deemed to be a condition in every contract for the sale of flour by a miller through the agency of the Board that where the flour is to be delivered elsewhere than at the premises of the miller, the flour shall be deemed to be at the risk of the miller until the time when the flour is delivered by the carrier thereof to the purchaser in accordance with the contract.

(2) It shall be the duty of the Board to arrange for the insurance against loss of or damage to flour sold through the agency of the Board during the transit of the flour from the miller to the purchaser, or the board may itself indemnify any person against any such loss or damage during any such transit.

(3) Nothing in this regulation shall be deemed to affect the liability or the responsibility of any carrier in respect of any loss of or damage to flour while in the custody of the carrier.

30. Sale of bran and pollard—All bran or pollard produced in a mill shall be sold or otherwise disposed of to such persons and in such quantities as the Board may direct and no miller shall use any bran or pollard produced in his mill for the manufacture of stock or poultry food except in accordance with the directions of the Board.

PART IV—MISCELLANEOUS PROVISIONS

31. Agents and branches—The Board may from time to time appoint agents and establish branches for the purposes of the exercise of its powers and functions and may from time to time determine any such appointments and close any such branches.

32. Brands—(1) Every miller shall submit to the Board for its approval a brand or brands which shall be used by him to identify all flour, or any type or class of flour, sold by him.

(2) No miller shall use a brand unless it is approved by the Board and no flour shall be sold by a miller unless it is identified by an approved brand.

(3) All brands in use by a miller at the commencement of these regulations shall be deemed to have been approved by the Board.

33. Levies—(1) In respect of all wheat grown in New Zealand and sold to the Board or a grain merchant there shall be paid by the grower of wheat so sold the following levies:

- (a) A levy computed at the rate of $\frac{1}{2}$ d. for every bushel:
- (b) A further levy computed at the rate of 1d. for every bushel:
- (c) A levy computed at the rate of 2d. for every 50 bushels.

(2) The levy paid to the Board under paragraph (a) of subclause (1) of these regulations shall be paid into the Wheatgrowers' Compensation Fund established under regulation 16 of these regulations and used by the Board for the purposes specified in that regulation.

(3) The levy paid to the Board under paragraph (b) of subclause (1) of this regulation shall be used by the Board for the purpose of paying, at such rates as the Minister shall determine, the storage costs incurred by those growers who either store milling standard wheat on their own farms or arrange storage of any such wheat on their own account.

(4) The levy paid to the Board under paragraph (c) of subsection (1) of this regulation shall, at such times as the Board may determine, be paid to United Wheatgrowers (N.Z.) Ltd.

34. Collection of levies—(1) Every authorised broker acting on behalf of the Board and every grain merchant who buys from a grower any wheat in respect of which levies are payable under regulation 33 of these regulations shall, when making payment to the grower for the wheat, deduct therefrom the levies payable in respect thereof by the grower, and shall from time to time, as required by the Board, pay the proceeds of the levies into the Wheat Industry Account.

(2) Every grain merchant who collects levies under subclause (1) of this regulation may deduct a collection fee of an amount equal to $2\frac{1}{2}$ per cent of any levy collected.

(3) On payment into the Wheat Industry Account of the amount of any levies as aforesaid, the person paying that amount shall forward to the Board a statement containing such particulars with respect to the levies comprised in the payment as the Board may from time to time require.

35. Savings—Every document made or anything whatsoever done under any provision revoked by section 48 of the Act, so far as it is subsisting or in force at the time of the revocation and could have been made or done under these regulations shall continue and have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the document was made or the thing was done.

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.

These regulations replace the Board of Trade (Wheat and Flour) Regulations 1944 and the amendments thereto which were revoked by the Wheat Board Act 1965.

No substantial change is made in the effect of the regulations replaced but matters dealt with by the Act and several regulations regarded as obsolete or unnecessary have been omitted.

Changes in the previous regulations include—

- (a) A change in the compensation scheme for wheat growers. The amount of compensation which may be payable is increased from half to two-thirds of the normal yield with a limit of £30,000 in a season:
- (b) Merchants collecting wheat levies are entitled to a commission:
- (c) The amount of retail sales which a miller may effect for cash at his mill is increased from 5 tons to 10 tons:
- (d) Special provisions are made authorising millers to dispose of flour otherwise than through the agency of the Board where the Board is satisfied that the flour will be used for a special purpose:
- (e) A new provision is inserted providing for the disposition of bran and pollard.

Issued under the authority of the Regulation Act 1936.

Date of notification in *Gazette*: 22 December 1965.

These regulations are administered in the Department of Industries and Commerce.