

**Agriculture (Emergency Powers) Acts (1934 to 1997) by Parliamentary Counsel
002**

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REPRINTED ACT
[WITH AMENDMENTS INCORPORATED]

AGRICULTURE (EMERGENCY POWERS)

REPRINTED AS ON 1 FEBRUARY 1999

NOTES: 1. Except where otherwise indicated, all references to money in decimal currency in square brackets were substituted for references to money in the former currency by s. 7 of the Decimal Currency Act 1964.

2. Except where otherwise indicated, all references to the Minister of Agriculture and Forestry in square brackets have been substituted for references to the Minister of Agriculture pursuant to s. 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997. A reference to the Minister of Agriculture and Fisheries was substituted for a reference to the Minister of Agriculture by s. 3 (6) (a) of the Ministry of Agriculture and Fisheries Amendment Act 1972. The Ministry of Agriculture and Fisheries was abolished by s. 3 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, and by s. 6 (1) (b) of that Act the Ministry of Agriculture and Fisheries became separate ministries. The Ministry of Agriculture was abolished by s. 3 (1) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997.

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In this index "(n)" after a page number indicates that the enactment is referred to in a note on that page.

THE AGRICULTURE (EMERGENCY POWERS) ACT 1934

1934, No. 34

An Act to establish an Executive Commission of Agriculture with power to regulate the marketing and production of agricultural products and to co-ordinate the work of the several Boards and other authorities exercising powers in relation to the primary products of New Zealand; to change the name of and reconstitute the New Zealand Dairy Produce Control Board, and to extend its powers; and generally to enable effect to be given to the recommendations of a certain Commission appointed under the Commissions of Inquiry Act 1908 to inquire into matters affecting the dairy industry of New Zealand.

[13 November 1934

1. Short Title---This Act may be cited as the Agriculture (Emergency Powers) Act 1934.
2. Act divided into Parts---This Act is divided into Parts as follows:

PART I---The Executive Commission of Agriculture.

PART II---The New Zealand Dairy Board.

PART III---Financial Provisions.

PART IV---Enabling Provisions.

PART I

The Executive Commission of Agriculture

3. Executive Commission of Agriculture to be appointed---(1) There is hereby established a body to be called "The Executive Commission of Agriculture" (hereinafter in this Part of this Act referred to as the Commission).

(2) The Commission shall consist of the [Minister of Agriculture and Forestry] (who shall be the Chairman) and 3 other members (of whom one shall be appointed as the Deputy Chairman) to be appointed by the Governor-General in Council for a period of 5 years, save that any such member may be reappointed or may be at any time removed from office by the Governor-General for inefficiency, disability, insolvency, neglect of duty or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Governor-General.

(3) At least 2 members of the Commission shall be persons who at the date of their appointment are or theretofore have been actively engaged as producers in some branch of primary production or actively engaged otherwise than as producers in the manufacture or marketing of primary products or in some commercial or other undertaking closely associated with the production, manufacture, export, or marketing of primary products.

(4) The members of the Commission (other than the [Minister of Agriculture and Forestry]) shall receive, from money to be appropriated

by Parliament for the purpose, such salaries and allowances as may be approved by the Governor-General.

(5) The members of the Commission shall not as such be deemed to be permanent officers of the Public Service or subject to [the State Sector Act 1988].

(6) No member of the Commission other than the [Minister of Agriculture and Forestry] shall be engaged in any paid employment, otherwise than as a member of the Commission.

(7) The powers of the Commission shall not be affected by any vacancy in the membership thereof.

In subss. (2), (4) and (6) the references to the Minister of Agriculture and Forestry were substituted pursuant to s. 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 for references to the "Minister of Agriculture and Fisheries" which were substituted for references to the "Minister of Agriculture" by s. 3 (6) of the Ministry of Agriculture and Fisheries Amendment Act 1972. See now note 2 on p. 1 of this Reprint.

As to the functions of the Commission, see the note to s. 6 of this Act.

In subs. (5) the reference to the State Sector Act 1988 was substituted by s. 90 (a) thereof for a reference to the State Services Act 1962, which being the corresponding enactment had been substituted for the Public Service Act 1912, which was repealed by s. 77 (1) of the State Services Act 1962.

4. Governor-General may appoint deputy to act during incapacity of member of Commission---(1) In any case in which the Governor-General is satisfied that any member of the Commission is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Governor-General may appoint a deputy to act for that member during such incapacity, and any such deputy shall, while he acts as such, be deemed to be a member of the Commission.

(2) No such appointment of a deputy and no acts done by him as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

5. Meetings of the Commission---(1) Meetings of the Commission shall be held at such times and places as the Commission or the Chairman thereof shall from time to time appoint.

(2) At all such meetings 2 members of the Commission shall constitute a quorum.

(3) At any meeting of the Commission the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote. The decision of the Commission on any matter shall be determined by a majority of the valid votes recorded thereon.

6. Functions of the Commission---(1) The functions of the Commission shall be---

(a) To co-ordinate the work of the several Boards and other

authorities exercising powers with respect to any of the primary products of New Zealand:

- (b) To exercise any powers that may be transferred to it pursuant to the next succeeding section hereof:
- (c) To make such recommendations to the Government as it thinks proper with a view to the making of regulations under Part IV hereof:
- (d) Such other functions as may from time to time be lawfully conferred upon it by regulations under Part IV of this Act or otherwise howsoever.

(2) In the exercise of its functions under this Act the Commission shall have all the powers of a Commission appointed under the Commissions of Inquiry Act 1908.

The functions of the commission as formulated in this section are now functions of the Minister of Agriculture and Forestry; see ss. 7 and 8 (1) of the Marketing Act 1936. See also s. 8 (3) and (4) of that Act as to the abolition of the Commission on a date to be fixed by the Governor-General in Council, and as to the exercise of the Commission's powers under subs. (2) of this section pending its abolition. See also s. 2 of the Marketing Amendment Act 1953, and note 2 on p. 1 of this reprint.

7. Provision for transfer to the Minister of Agriculture and Forestry of certain powers vested in other authorities---(1) Subject to the provisions of subsection (3) hereof, the Governor-General may from time to time, by Order in Council, transfer to [the Minister of Agriculture and Forestry] any powers conferred by statute or otherwise on any of the following bodies, namely:

- [(a) The New Zealand Meat Board established by section 4 (1) of the Meat Board Act 1997:]
- (b) The New Zealand Dairy Board, being the Board established under [the Dairy Board Act 1961]:
- (c) The New Zealand Fruit Export Control Board, established under the Fruit Control Act 1924:
- (d) Any Local Control Board the establishment of which is provided for by the Fruit Control Act 1924 (whether any such Board has been established or not):
- (e) Repealed by s. 11 (b) of the Finance Act 1957.
- (f) The New Zealand Poultry Board, established under [the Poultry Board Act 1980].

(2) On the transfer of any powers to [the Minister of Agriculture and Forestry] pursuant to the last preceding subsection, the Board in which such powers were theretofore vested may exercise any of such powers with the authority of [the Minister of Agriculture and Forestry] and subject to such conditions (if any) as [the Minister of Agriculture and Forestry] may approve, but not otherwise.

(3) No powers that are vested in any of the Boards referred to in subsection (1) hereof shall be transferred to [the Minister of Agriculture and Forestry] pursuant to this section except after consultation between [the Minister of Agriculture and Forestry] and the Board in which such powers are so vested.

In subss. (1), (2), and (3) the references to the Minister of Agriculture and Forestry were substituted pursuant to s. 5 (1) (c)

of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 for references to the Minister of Agriculture and Fisheries which were substituted for references to the Minister of Agriculture (which had been substituted for references to the Minister of Marketing, as substituted for references to the Commission by s. 8 (2) of the Marketing Act 1936, by s. 3 (3) of the Marketing Amendment Act 1953) by s. 3 (6) of the Ministry of Agriculture and Fisheries Amendment Act 1972. See note 2 on p. 1 of this Reprint.

In subs. (1), para. (a) was substituted for the original para. (a) by s. 82 (1) of the Meat Board Act 1997.

In subs. (1) (b) the Dairy Board Act 1961, being the corresponding enactment in force at the date of this reprint, has been substituted for the Dairy Produce Export Control Act 1923, which was repealed by s. 26 (1) of the Dairy Board Act 1953 and that Act was repealed by s. 73 of the Dairy Board Act 1961.

The Fruit Control Act 1924 referred to in subs. (1) (c) and (d) was repealed by s. 34 (3) of the Apple and Pear Marketing Act 1948, and the New Zealand Fruit Export Control Board was dissolved by s. 34 (1) of that Act, its assets being vested in the New Zealand Apple and Pear Marketing Board by s. 34 (2) of that Act. The 1948 Act has been repealed by s. 48 (1) of the Apple and Pear Marketing Act 1971.

In subs. (1) (f) the Poultry Board Act 1980, being the corresponding enactment, has been substituted for the Poultry Runs Registration Act 1933, which was repealed by s. 32 of the Poultry Board Act 1976 and the 1976 Act was repealed by s. 26 (6) (b) of the Poultry Board Act 1980. The 1980 Act has been repealed by s. 3 (a) of the Poultry Board Act Repeal Act 1989.

This section was extended to apply to the Tobacco Board established under the Tobacco Growing Industry Act 1974 by s. 51 of that Act. That Act was repealed by s. 3 (f) of the Tobacco Growing Industry Repeal Act 1987.

8. Expenses of the Minister of Agriculture and Forestry---The expenses incurred by [the Minister of Agriculture and Forestry] in the exercise of [his] powers and functions shall be defrayed as follows:

- (a) All such expenses that are attributable exclusively to the exercise by [the Minister of Agriculture and Forestry] of any powers or functions in relation to any one of the Acts specified in subsection (1) of the last preceding section shall be paid out of the funds of the Board established under that Act:
- (b) All such expenses that are attributable to the exercise by [the Minister of Agriculture and Forestry] of any powers or functions in relation to 2 or more of the said Acts shall be paid out of the funds of the several Boards concerned, in proportions to be decided, in cases of dispute, by the Governor-General in Council:
- (c) Any other expenses of [the Minister of Agriculture and Forestry] may be paid out of money to be appropriated by Parliament for the purpose.

The references to the Minister of Agriculture and Forestry were substituted pursuant to s. 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 for references to the Minister of Agriculture and Fisheries which were substituted for references to the Minister of Agriculture (which had been substituted for references to the Minister of Marketing, as

substituted for references to the Commission by s. 8 (2) of the Marketing Act 1936, by s. 3 (3) of the Marketing Amendment Act 1953) by s. 3 (6) of the Ministry of Agriculture and Fisheries Amendment Act 1972. See note 2 on p. 1 of this Reprint.

As to the Tobacco Board, see the last note to s. 7 of this Act.

PART II The New Zealand Dairy Board

9-25. Repealed by s. 26 of the Dairy Board Act 1953.

PART III Financial Provisions

26. Repealed by s. 163 (1) of the Public Finance Act 1977.

PART IV

Enabling Provisions

27. Regulations for purpose of giving effect to recommendations of Commission of Inquiry---(1) For the purpose of giving effect to the recommendations of the Commission of Inquiry referred to in the Preamble to this Act, and generally for the purpose of securing the effective conduct of any of the industries in respect of which the [Minister of Agriculture and Forestry] has for the time being any statutory or other functions and otherwise for the purpose of giving effect to this Act, the Governor-General may from time to time, by Order in Council, make all such regulations as he may consider necessary.

(2) In particular, but without in any way limiting the generality of the authority conferred by the last preceding subsection, regulations may be made hereunder for all or any of the following purposes, namely:

- (a) Prescribing the conditions to be observed by persons engaged in the production of milk or cream for sale:
- (b) For the licensing of dairy factories, and prescribing the conditions subject to which licences may be granted, refused, or revoked:
- (c) For the handling and marketing of dairy produce in New Zealand or elsewhere:
- (d), (e) Repealed by s. 26 of the Dairy Board Act 1953.
- (f) Any other purposes for which regulations are contemplated by or may be required to give effect to this Act.

(3) No regulation made under the authority of this section shall be invalid because it deals with any matter provided for by any Act in that behalf, or because of repugnancy to any such Act.

(4) No person shall be liable in damages for any breach of contract in so far as such breach is occasioned by compliance with any regulations made under this section.

[[(5) All regulations made under the authority of this section shall be laid before the House of Representatives not later than the 16th sitting day of the House of Representatives after the day on which they

are made.

(6) Any regulations required by subsection (5) of this section to be laid before the House of Representatives shall---

- (a) If not so laid, expire on the close of the 16th sitting day of the House of Representatives after the day on which the regulations are made; and
- (b) If they are so laid, expire on the close of the last day of the session of Parliament during which they are so laid except so far as they are expressly validated and confirmed by an Act of Parliament passed during that session.]]

(7) All regulations made under the authority of this section shall, while they continue in force, have the force of law as if they were enacted by this Act.

(8) The validity of any regulations made under the authority of this section shall not be affected by reason only of the repeal of an Act of Parliament validating and confirming them.]

In subs. (1) the reference to the Minister of Agriculture and Forestry was substituted pursuant to s. 5 (1) (c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 for a reference to the Minister of Agriculture and Fisheries which was substituted for a reference to the Minister of Agriculture (which had been substituted for a reference to the Minister of Marketing, as substituted for a reference to the Executive Commission of Agriculture by s. 15 (2) of the Marketing Act 1936, by s. 3 (3) of the Marketing Amendment Act 1953) by s. 3 (6) of the Ministry of Agriculture and Fisheries Amendment Act 1972. See note 2 on p. 1 of this Reprint.

Subss. (5) to (8) were substituted for the original subss. (5) to (7) by s. 2 of the Agriculture (Emergency Powers) Amendment Act 1979, and new subss. (5) and (6) were substituted for the former subss. (5) and (6) (as so substituted) by s. 27 of the Constitution Act 1986.

S. 15 (1) of the Marketing Act 1936 extended this section so as to authorise the making of all such regulations as may be required for the purpose of giving effect to that Act.

As to the confirmation of regulations made under this section, see the Agriculture (Emergency Regulations Confirmation) Act 1977.

Amending Act/Rule(s)

- 1 The Agriculture (Emergency Powers) Amendment Act 1936
- 2 Short Title
- 3 Regulations may impose obligations on manufacturers of containers for dairy produce
- 4 Penalty for offences against regulations
- 5 Repealed by s. 3 of the Agriculture (Emergency Regulations Confirmation) Act 1957.
- 6 untitled amendment
- 7 The Agriculture (Emergency Powers) Amendment Act 1979
- 8 Short Title
- 9 This section substituted new subss. (5) to (8) for subss. (5) to (7) of s. 27 of the principal Act.