



SUPPLEMENT
TO THE
NEW ZEALAND GAZETTE

OF
THURSDAY, FEBRUARY 19, 1942.

Published by Authority.

WELLINGTON, MONDAY, FEBRUARY 23, 1942.

The Christchurch Milk Delivery Emergency Regulations 1942.

C. L. N. NEWALL, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 23rd day of February, 1942.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Emergency Regulations Act, 1939, 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 : 1. These regulations may be cited as the Christchurch Milk Delivery Emergency Regulations 1942.

1 : 2. These regulations shall come into force on the day following publication hereof in the *Gazette*.

1 : 3. The Christchurch Milk Delivery Emergency Regulations 1940 are revoked.

1 : 4. In these regulations, unless inconsistent with the context,—

“Committee” means the Executive Committee established by these regulations :

“Council” means the Christchurch City Council :

“Dairyman” means the occupier of any dairy or dairy premises within the district or any dairy or dairy premises outside the district the milk from which is delivered into the district :

“Delivery” includes supply, and “to deliver” has a corresponding meaning :

“District” means the Christchurch Transport District as constituted at the time of enactment of these regulations under the Transport Licensing Act, 1931 :

“Levy” means any levy imposed under the authority of these regulations :

“Milk” includes cream :

“Milk-vendor” means any person who in the milk district delivers milk otherwise than by sale over the counter :

“Minister” means the Minister of Supply and Munitions :

“Town Clerk” means the Town Clerk of the City of Christchurch.

1 : 5. These regulations shall not apply to—

- (a) Milk or cream intended for manufacture into butter, cheese, or casein ; or
- (b) Milk or cream which is outside the district and is not intended to be supplied to or sent or brought into the district ; or
- (c) Dried milk, condensed milk, of condensed cream.

PART II.—REQUIREMENT OF LICENSE.

2 : 1. On and after such date as may be fixed by the Council it shall not be lawful for any person, whether as principal, agent, or otherwise, and whether by motor-vehicle or otherwise,—

- (i) To deliver milk in the district in pursuance of a contract of sale whether made within the district or elsewhere ; or
- (ii) To bring into the district for use, consumption, or sale milk purchased outside the district—

except under a milk-vendor’s license issued under these regulations and in accordance with the terms and conditions of such license.

2 : 2. The said date shall be publicly notified by the Council at least seven days prior thereto.

2 : 3. In any legal proceedings the production of a newspaper purporting to be published in the City of Christchurch and to contain a public notification as hereinbefore prescribed and to be authenticated as prescribed for notices of borough councils by the Municipal Corporations Act, 1933, shall be sufficient evidence of the said date and that the same has been duly fixed and notified.

PART III.—EXECUTIVE COMMITTEE.

3 : 1. For the purposes of these regulations there shall be an executive committee to consist of the following persons :—

- (i) The Mayor for the time being of the City of Christchurch who shall also be Chairman :
- (ii) The person for the time being holding office as Deputy Mayor of the City of Christchurch who shall be Chairman in the absence of the Mayor.
- (iii) One person appointed by the Christchurch Suburban Local Bodies' Association.
- (iv) The person for the time being holding office under the Transport Licensing Act, 1931, as Transport Licensing Authority for the No. 3 Transport District, or if such Licensing Authority at any time consists of more than one person, then the Chairman thereof.

3 : 2. Any person appointed in terms of paragraph (iii) of Regulation 3 : 1 hereof, may resign his office by writing under his hand addressed to the Town Clerk, or may be removed from office by notice addressed to him by the Christchurch Suburban Local Bodies' Association, and in such case, or in case of his death, his office shall become vacant, and shall be filled by appointment by the said Association after following the same procedure as in making the original appointment.

3 : 3. No member of the Committee if acting *bona fide* shall be personally liable for any default of the Committee or any act of the Committee when such default or act occurs in the course of the operations of the Committee, and no officer of the Council carrying out any directions of the Committee if acting *bona fide* shall be personally liable for any default in the course of his authorized duties.

3 : 4. For the purposes of any exercise of the powers of the Committee the provisions of the Commissions of Inquiry Act, 1908, shall, so far as they are applicable, apply as if the Committee were a Commission of Inquiry appointed under that Act.

3 : 5. Any decision of the Committee shall be affected by means of a resolution passed at a meeting called as hereinafter provided and concurred in by a majority vote of members then present and forming a quorum. In the event of the votes on any resolution being even, the Chairman shall have a casting vote.

3 : 6. Unless and until the Committee shall from time to time by resolution otherwise provide, a quorum of the Committee shall consist of two members.

3 : 7. No act or proceeding of the Committee, or of any person acting as a member of the Committee, shall be invalidated in consequence of there being a vacancy in the Committee at the time of such act or proceeding, or of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he was incapable of being such member.

3 : 8. The Committee shall hold its meetings at such times and at such places as it from time to time appoints, save that the first meeting shall be convened by the Town Clerk.

3 : 9. If no quorum is present within half an hour of the time fixed for the holding of any meeting, the same shall stand adjourned from day to day at the same time and place until a quorum is assembled.

3 : 10. The Committee may, subject to the provisions of these regulations, make rules,—

- (a) For the notification to members of time and place of meetings, for the conduct of meetings, for the recording of its decisions, and generally for regulating its procedure in any respect not expressly provided for by these regulations :
- (b) Providing for the payment to members of such allowances, not exceeding two guineas per meeting for the Chairman and one guinea per meeting for other members, as are fixed by the Committee and approved by the Minister :
- (c) Concerning anything incidental to the provisions and purposes of these regulations and not herein provided for.

3 : 11. Any public notification given by the Committee shall be sufficient if purporting to be by order of the Committee and if verified by the signature of the Town Clerk or appended thereto of a person purporting to be the Secretary of the Committee, and any license, notice, or other document issued by the Committee or the Council under these regulations shall be sufficient if purporting to be by order of the Committee and to be signed by the Town Clerk.

3 : 12. A copy of any resolution or decision of the Committee certified by the Town Clerk to be correct shall, until the contrary is proved, be sufficient evidence of such resolution or decision in any proceedings under these regulations.

3 : 13. A certificate signed by the Town Clerk to the effect that any person required to be licensed under these regulations was at the date of the certificate so licensed or not so licensed shall, until the contrary is proved, be sufficient evidence of the matters stated therein.

3 : 14. Any return, notice, or other document required or desired to be given to or served on the Committee shall be sufficiently given or served if addressed to the Committee and given to or served upon the Town Clerk.

PART IV.—MILK-VENDORS' LICENSES.

4 : 1. Every application for a milk-vendor's license under these regulations shall be made in writing addressed to the Town Clerk and signed by the applicant, and shall contain such information relating to the extent of the applicant's business as the Committee may from time to time generally or for the purposes of any particular case or cases require.

4 : 2. In considering any application for a license, and the conditions to be imposed in any license which the Committee in its discretion elects to grant, the Committee shall have regard to the situation of the locality from which supplies are to be drawn, the volume of business carried on by an applicant prior to the coming into force of these regulations, and the desirability of reducing, so far as may be in the public interest, the amount of oil fuel used in the procuring and delivery of milk and the man-power, time, and number of vehicles therein involved.

4 : 3. In granting any milk-vendor's license the Committee may prescribe—

- (a) The period or occasion of the license :
- (b) The localities to be served or the route or routes within the district to be traversed and the frequency of service in the delivery of milk :
- (c) Such other terms or conditions incidental to the matters described in paragraphs (a) and (b) hereof as may, in the opinion of the Committee, be desirable.

4 : 4. It shall be a condition of every milk-vendor's license (whether inserted therein or not) that the licensee will not abandon or curtail the service authorized by the license without the consent of the Committee, to which he shall give not less than twenty-eight days' notice of his desire to abandon or curtail the service.

4 : 5. Subject to appeal as hereinafter provided, the Committee shall have the powers of a Licensing Authority under the Transport Licensing Act, 1931, in respect of the revocation, suspension, amendment, review, and transfer of any milk-vendor's license.

4 : 6. The Committee may, subject to these regulations and for the purpose of carrying out its functions under these regulations,—

- (a) Call for and obtain such information or returns as in the opinion of the Committee are necessary or desirable :
- (b) Require milk-vendors to keep such books and records as may be deemed necessary or desirable by the Committee, and in such forms as it may from time to time prescribe :
- (c) Recommend the Oil Fuel Controller appointed under the Oil Fuel Emergency Regulations 1939 to refuse, restrict, or increase the supply of oil fuel to any milk-vendor :
- (d) Arrange for meetings and consultations of milk-vendors and dairymen in order that they may submit to the Committee schemes for the purpose of enabling the Committee to carry out its functions :
- (e) Approve any scheme or schemes so submitted :
- (f) If no scheme submitted in terms of paragraph (d) hereof is to the satisfaction of the Committee, the Committee itself may take such steps as it deems necessary to carry out its functions, and in particular amend or modify any schemes submitted to it as hereinbefore provided or itself initiate any scheme or schemes.

PART V.—FINANCIAL PROVISIONS.

5 : 1. The expenses of administering these regulations shall be borne by the Council out of the moneys in its District Fund.

5 : 2. For the purpose of recouping the Council for the expenses aforesaid, including the services of the Council's officers afforded to the Committee, the Committee shall from time to time by resolution impose a levy on all milk sold within the district by milk-vendors, and such levy may from time to time be increased or reduced :

Provided that every increase or reduction shall take effect on the first day of some calendar month to be specified in the Committee's resolution.

5 : 3. Notice of the amount of the levy or of any increase or reduction therein and of the date when the levy or the increase or reduction therein shall take effect shall be published by the Committee at least seven days prior to such date in some newspaper circulating within the district.

5 : 4. The levy shall be fixed as a rate payable in respect of each gallon of milk sold as aforesaid and shall not exceed the rate of 1⁰/₁₀d. a gallon.

5 : 5. For the purpose of assessment of levy, a sale of any quantity of cream shall be deemed to be a sale of twelve times that quantity of milk.

5 : 6. The amount of the levy imposed in respect of milk sold in every calendar month shall be due and payable on the fourteenth day of the next succeeding month.

5 : 7. Every milk-vendor who fails to make any payment of levy within seven days after the due date thereof may, in the discretion of the Committee, be required to make an additional payment of 10 per cent. of the sum due and

unpaid, and such additional payment shall become due and payable or be deemed to have become due and payable on the eighth day following the due date for the payment of levy in respect of which it is imposed.

5 : 8. The decision of the Committee to impose the said additional payment of 10 per cent. may apply generally or to a particular case or class of cases and may apply to any sums already due and unpaid at the date of the resolution, and may by like resolution be rescinded either generally or in respect of a particular case or class of cases.

5 : 9. Every payment of levy and every additional payment may at any time after the due date thereof be recovered in any Court of competent jurisdiction by the Corporation of the Mayor, Councillors, and Citizens of the City of Christchurch as a debt due to the said Corporation.

5 : 10. Where milk is or may be the subject of more than one sale, the Committee may determine that the levy shall be payable in respect of one sale only, and where it has so determined shall determine also in respect of which sale the levy shall be payable, and any such determination as aforesaid may be of general application or apply only to a particular case or class of cases, and shall in every case be revocable at the pleasure of the Committee, but so that the revocation shall not be retrospective.

5 : 11. If at any time the Council is of opinion that the levy for the time being imposed by the Committee is either inadequate or excessive for the purposes referred to in Regulation 5 : 2 hereof the Council may by special order modify the decision of the Committee as to the levy for the time being in force, and such modification shall take effect on the date fixed by the special order and, unless previously revoked or modified by a like special order, shall remain in force for a term to be specified in the special order modifying the levy.

PART VI.—MONTHLY RETURNS.

6 : 1. Every licensed milk-vendor shall within fourteen days after the end of each calendar month deliver to the Committee a return in the form prescribed by the Committee setting forth the quantity of milk sold by him during that month and such other particulars (whether of a like nature or not to the particulars specified in this regulation) as may be from time to time required by the Committee. The return shall, if so required by the Committee, be verified by statutory declaration.

6 : 2. If any milk-vendor fails to deliver to the Committee any return required under these regulations within the time hereinbefore provided in that behalf, or delivers a return which in the opinion of the Committee does not show the quantity of milk actually sold by him, the Committee may make and notify to the milk-vendor an assessment of the quantity of milk upon which, in its opinion, such milk-vendor ought to pay the levy, and the quantity so assessed shall be deemed to be the correct quantity upon which the levy is payable by such milk-vendor, save in so far as he satisfies the Committee or establishes in any action taken by the Committee to recover the levy that the assessment is excessive.

PART VII.—APPEALS.

7 : 1. There shall be a right of appeal to the Council from the whole or any part of any decision of the Committee made in respect of its powers of licensing conferred by these regulations.

7 : 2. The following persons and no others may appeal as aforesaid :—

- (a) The person in respect of whose application the decision of the Committee was given :
- (b) The holder of any license in respect of which the decision was given :
- (c) The Oil Fuel Controller :
- (d) Any other person affected by the decision and being the holder of a license under these regulations, or any local authority or public body :
- (e) Any fifty or more adult residents of any locality affected by the decision of the Committee.

7 : 3. Pending the determination of any appeal duly lodged by a milk-vendor against any decision of the Committee in relation to his business, the appellant may carry on his business in the manner in which and to the extent to which he was lawfully carrying it on at the time when the decision of the Committee was given.

7 : 4. Every appeal shall be delivered to the Town Clerk within seven days after the date when the determination appealed against was communicated by the Committee to the person affected or became known or should have become known to the appellant, and a copy of any correspondence or other documents relating to the subject-matter of the appeal and in the possession of the appellant shall be attached to the petition.

7 : 5. For the purposes of any appeal under these regulations, the provisions of the Commissions of Inquiry Act, 1908, shall, so far as they are applicable and with any necessary modifications, apply as if the Council were a Commission of Inquiry appointed under that Act.

7 : 6. In determination of any appeal the Council may confirm, modify, or reverse the decision appealed against.

7 : 7. The Council may, in the hearing of an appeal, accept such evidence as it thinks fit, whether such evidence would be legally admissible in judicial proceedings or not.

7 : 8. Save as hereinbefore provided, the Council shall determine its procedure in such manner as it thinks fit.

7 : 9. The determination of the Council in any appeal shall be final, and shall have effect according to its tenor. In any case where the decision appealed against is modified or reversed it shall be the duty of the Committee to take forthwith any action that may be required to give effect to the determination of the Council.

7 : 10. No determination of an appeal by the Council shall be invalidated merely by the participation therein of the Mayor or any other Councillor who was a member of the Committee taking part in the decision appealed from.

PART VIII.—GENERAL.

8 : 1. Nothing contained in these regulations shall relieve any person from the obligation of complying with the provisions of the Transport Licensing Act, 1931, the Dairy Industry Act, 1908, the Health Act, 1920, and the Sale of Food and Drugs Act, 1908, and of regulations made under any of the said Acts.

8 : 2. If compliance with the terms of any contract at any time in force is prevented wholly or partially by the operation of these regulations or of any resolution of the Committee or decision of the Council hereunder, then in respect of such prevention these regulations shall be a defence to any action on any such contract :

Provided that if any party would be precluded by this provision from recovering the price of any goods supplied or remuneration for work done prior to the date when such compliance became so prevented, such party shall, any rule of law to the contrary notwithstanding, be entitled to recover the fair value of such goods or work.

8 : 3. The Council shall have power by special order to assume, as from a date to be fixed in such special order, the powers and functions of the Committee, and to delegate such powers and functions to a Committee of the Council, to which shall be appointed a person nominated by the Christchurch Suburban Local Bodies' Association (or in default of such nomination then a person to be nominated by the Minister to represent the local authorities other than the Council any part of the districts of which are within the Christchurch Transport District) and the person described in paragraph (iv) of Regulation 3 : 1 hereof.

8 : 4. As from the date fixed by the special order made in terms of the last preceding regulation, these regulations shall be read as if the word "Council" were substituted for the word "Committee" in all parts of these regulations other than Part I, and Part VII of these regulations shall have no effect.

8 : 5. The Council may from time to time refer to the Committee any particular course of policy in a matter lying within the functions of the Committee, and the Committee shall forthwith take such reference into consideration and report to the Council its determination thereon.

PART IX.—OFFENCES AND PENALTIES.

9 : 1. Every person who—

- (a) Knowingly supplies any false or misleading information in or concerning any application made in terms of these regulations ; or
- (b) Omits or refuses to supply any information herein required ; or
- (c) Fails to comply with any condition, duty, or obligation imposed by these regulations or imposed in any license under these regulations : or
- (d) Fails to comply with any notice given to him under these regulations ; or
- (e) Otherwise fails to comply with any of these regulations—

commits an offence against these regulations.

9 : 2. Any person who commits an offence against these regulations shall be liable for every such offence to a fine not exceeding £10.

9 : 3. All fines recoverable under the provisions of these regulations shall, when recovered, be applied in the same manner as fines recovered for breaches of by-laws made by the Council under the Municipal Corporations Act, 1933.

W. O. HARVEY,
Acting Clerk of the Executive Council.

By Authority: E. V. PAUL, Government Printer, Wellington.

