

FLAX INDUSTRY.

No. 25 of 1953.

An Act to provide for the Establishment of a Flax Commission, and for matters incidental thereto.

[Assented to 15th April, 1953.]

[Date of commencement, 13th May, 1953.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Flax Industry Act* 1953.

Short title.

2. This Act is divided into Parts, as follows :—

Parts.

Part I.—Preliminary (Sections 1-3).

Part II.—The Flax Commission.

Division 1.—Establishment and Constitution of the Commission (Sections 4-12).

Division 2.—Functions and Powers of the Commission (Sections 13-14).

Division 3.—Staff (Sections 15-19).

Division 4.—Finance (Sections 20-27).

Division 5.—Reports (Section 28).

Part III.—Miscellaneous (Sections 29-30).

Definitions.

3. In this Act, unless the contrary intention appears—

“flax” means flax plants and parts of flax plants, and includes straw, fibre, seed, chaff and tow produced or obtained from flax plants;

“flax plants” means plants of the genus *Linum Usitatissimum*;

“the Commission” means the Flax Commission constituted under this Act.

PART II.—THE FLAX COMMISSION.

Division 1.—Establishment and Constitution of the Commission.

The Flax Commission.

4.—(1.) For the purposes of this Act, there shall be a Commission, to be known as the Flax Commission.

(2.) The Commission shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to any document and shall presume that it was duly affixed.

(4.) The performance or exercise of the functions, powers, rights, authorities, duties or obligations of the Commission is not affected by reason only of there being a vacancy in the office of a member of the Commission.

Constitution of Commission.

5.—(1.) The Commission shall consist of five members, who shall be appointed by the Governor-General.

(2.) Subject to section nine of this Act, a member of the Commission holds office during the pleasure of the Governor-General.

Chairman and Deputy Chairman.

6.—(1.) The Governor-General shall appoint from amongst the members of the Commission a Chairman of the Commission and a Deputy Chairman of the Commission.

(2.) The persons so appointed shall, subject to the next succeeding sub-section, hold office as Chairman and Deputy Chairman respectively during the pleasure of the Governor-General.

(3.) The office of Chairman of the Commission or of Deputy Chairman of the Commission shall become vacant if the person holding that office ceases to be a member of the Commission.

Deputies of members of Commission.

7.—(1.) The Governor-General may appoint a person to be the deputy of a member of the Commission during the pleasure of the Governor-General.

(2.) A person so appointed as the deputy of a member may, in the event of the absence of that member from a meeting of the Commission, attend that meeting and, when so attending, shall be deemed to be a member of the Commission.

(3.) A reference in this Act to the Chairman, or to the Deputy Chairman, of the Commission shall not be construed as including a reference to the person appointed as deputy of the member of the Commission who is the Chairman, or Deputy Chairman, of the Commission.

8.—(1.) The members of the Commission and the deputies of members of the Commission shall be paid such remuneration and allowances as the Governor-General determines. Remuneration, &c., of members and deputies.

(2.) Where a member of the Commission was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his service as a member of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1953* applies as if this Act and this section had been specified in the Schedule to that Act.

9. The office of a member of the Commission shall become vacant— Vacation of office of members.

- (a) if he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit ;
- (b) if he becomes of unsound mind ;
- (c) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation is accepted by the Governor-General ;
- (d) if he is absent, except on leave of absence granted in writing by the Minister, from four consecutive meetings of the Commission ; or
- (e) if he, in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons—
 - (i) becomes concerned or interested in a contract or agreement (other than a contract or agreement relating to the growing of flax) entered into by or on behalf of the Commission ; or
 - (ii) participates or claims to participate in the profit of such a contract or agreement or in a benefit or emolument arising from such a contract or agreement.

10. The Minister may grant leave of absence to a member of the Commission upon such terms and conditions as to remuneration or otherwise as the Minister determines. Leave of absence of a member.

Meetings of
Commission.

11.—(1.) Meetings of the Commission shall be held at such times and places as the Commission determines or as the Minister or the Chairman of the Commission directs.

(2.) At a meeting of the Commission, three members of the Commission constitute a quorum.

(3.) The Chairman of the Commission shall preside at all meetings of the Commission at which he is present.

(4.) In the absence of the Chairman from a meeting of the Commission, the Deputy Chairman of the Commission shall preside at the meeting.

(5.) In the absence of both the Chairman and the Deputy Chairman from a meeting of the Commission, the members of the Commission present shall appoint one of their number to preside at the meeting.

(6.) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the members present.

(7.) The Chairman, Deputy Chairman or other member of the Commission presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Delegation
of powers of
Commission.

12.—(1.) The Commission may, in relation to a particular matter or class of matters, or to a particular place, by writing under its seal, delegate to a person all or any of its powers under this Act, except this power of delegation, so that the delegated powers may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation.

(2.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Commission.

Division 2.—Functions and Powers of the Commission.

Functions of
Commission.

13. The functions of the Commission are to maintain and develop the flax industry in Australia and the capacity of Australia to produce flax in order to ensure that sufficient supplies of flax are available for the purposes of the defence of the Commonwealth and that the capacity of the flax industry to produce flax for those purposes in the event of war will be adequate.

Powers of
Commission.

14.—(1.) The Commission has such powers as are necessary or convenient for, or incidental to, the performance of its functions.

(2.) Without limiting the generality of the powers of the Commission under the last preceding sub-section, the Commission may, in the performance of its functions—

(a) enter into contracts and arrangements with persons for the growing of flax plants and for the sale of flax to the Commission ;

- (b) purchase or otherwise acquire flax, and engage in the processing and milling of flax ;
 - (c) purchase or otherwise acquire, establish, enlarge, maintain and operate mills for the processing and milling of flax ;
 - (d) purchase or otherwise acquire land ;
 - (e) purchase or otherwise acquire, take on lease, construct or enlarge buildings ;
 - (f) purchase or otherwise acquire, take on hire or construct plant, equipment, machinery or other goods ;
 - (g) sell or otherwise dispose of its property, including flax and products and by-products of flax ;
 - (h) appoint agents of the Commission ; and
 - (i) do anything incidental to any of the powers of the Commission.
- (3.) The exercise of a power by the Commission is subject to the directions, if any, of the Minister.

Division 3.—Staff.

15.—(1.) The Commission may appoint such officers as it thinks necessary. Appointment of officers.

(2.) Subject to the next succeeding sub-section, a person shall not be appointed as an officer of the Commission unless—

- (a) he is a British subject ;
- (b) the Chairman of the Commission is satisfied as to his health and physical fitness ; and
- (c) he makes and subscribes an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution.

(3.) The Commission may appoint, to such positions or to positions of such classes as are approved by the Minister, persons who do not comply with all the provisions of the last preceding sub-section.

16.—(1.) Subject to the next succeeding sub-section, the terms and conditions of employment of officers appointed by the Commission shall be such as are, subject to the approval of the Public Service Board, determined by the Commission. Terms and conditions of employment.

(2.) The rate of salary payable to an officer shall, if it exceeds the rate of Two thousand pounds per annum, be subject to the approval of the Minister.

(3.) Where an officer appointed in pursuance of this section was, immediately before his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth, and the *Officers' Rights Declaration Act 1928-1953* applies as if this Act and this section had been specified in the Schedule to that Act.

Temporary and casual employees.

17. The Commission may employ such temporary or casual employees as it thinks fit, on such terms and conditions as the Commission determines.

Compensation to officers and employees.

18.—(1.) The *Commonwealth Employees' Compensation Act* 1930-1951 applies to officers and employees of the Commission as if they were employees within the meaning of that Act.

(2.) Any liability to pay compensation under that Act as applied by this section shall be borne by the Commission.

Preservation of certain awards, &c.

19. Nothing in this Act prevents the making of an industrial award, order, determination or agreement under any Act in relation to persons appointed or employed under this Act or affects the operation of such an award, order, determination or agreement in relation to persons so appointed or employed.

Division 4.—Finance.

Power to borrow money.

20.—(1.) The Commission has power to borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer.

(2.) The Treasurer may, out of moneys appropriated by the Parliament for the purposes of this Act, make advances to the Commission of such amounts and upon such terms as he thinks fit.

(3.) Except with the consent of the Treasurer, the Commission shall not borrow otherwise than in accordance with this section.

Bank accounts.

21. The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account with any other prescribed bank.

Application of moneys.

22.—(1.) Subject to this Act, the moneys of the Commission shall be applied by the Commission in payment or discharge of—

(a) the expenses, charges and other obligations incurred or undertaken by the Commission in the performance of its functions and the exercise of its powers under this Act or imposed on the Commission by this Act; and

(b) the remuneration and allowances of the members of the Commission.

(2.) Moneys of the Commission not immediately required for the purposes of the Commission may be invested on fixed deposit with the Commonwealth Bank of Australia or in securities of, or guaranteed by, the Government of the Commonwealth.

Accounts.

23. The Commission shall keep accounts in such form as the Treasurer approves.

Audit.

24.—(1.) The accounts of the Commission are subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth.

(2.) The Auditor-General shall report to the Minister the result of each inspection and audit.

25. The income, property and operations of the Commission are subject to taxation, other than income tax, under the laws of the Commonwealth but are not subject to taxation under a law of a State to which the Commonwealth is not subject. Liability to taxation.

26. The Commission may, with the approval of the Treasurer, set aside, out of its revenue, such sums as it thinks proper for reserves for depreciation of assets, insurance or other purposes. Reserves.

27. Subject to the last preceding section, the profits derived by the Commission shall be applied— Application of profits of Commission.

- (a) firstly, in payment of interest charged on moneys advanced to the Commission by the Treasurer ;
- (b) secondly, in repayment of advances made by the Treasurer in accordance with the terms upon which those advances were made ; and
- (c) thirdly, in such manner as the Treasurer, after the receipt of a recommendation by the Minister, determines.

Division 5.—Reports.

28.—(1.) The Commission shall, as soon as practicable after the thirtieth day of June in each year, prepare and furnish to the Minister a report on the operations of the Commission during the year ended on that date, together with financial accounts in respect of that year in such form as the Treasurer approves. Annual report of Commission.

(2.) Before submitting the financial accounts to the Minister, the Commission shall submit them to the Auditor-General for the Commonwealth for report as to their correctness or otherwise.

(3.) The report and financial accounts of the Commission, together with the report of the Auditor-General as to those accounts, shall be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

(4.) The Commission shall furnish to the Minister such other reports, and such documents and information, relating to the operations of the Commission as the Minister requires.

(5.) If the thirtieth day of June next succeeding the first appointment of members of the Commission occurs within six months after that appointment, the first report of the Commission under sub-section (1.) of this section shall be a report on the operations of the Commission for the period from the commencement of those operations to the

thirtieth day of June next succeeding that first-mentioned thirtieth day of June, and the financial accounts to be furnished with the report shall be accounts in respect of that period.

PART III.—MISCELLANEOUS.

Contracts,
agreements,
&c., of or
relating to
the Flax
Production
Committee.

29.—(1.) Where—

(a) the Flax Production Committee is a party to a contract, agreement or other instrument or the Commonwealth is a party to a contract, agreement or other instrument that was entered into or executed for a purpose connected with, or arising out of, the exercise and performance by the Flax Production Committee of its powers and functions; and

(b) the contract, agreement or other instrument is subsisting at the commencement of this Act,

that contract, agreement or other instrument shall continue in full force and effect and, in its operation after the commencement of this Act, shall have effect—

(c) as if the Commission were substituted for the Flax Production Committee or for the Commonwealth, as the case may be, as a party to the contract, agreement or other instrument; and

(d) as if, in the contract, agreement or other instrument, any reference to the Flax Production Committee were a reference to the Commission and any reference to a flax mill of the Commonwealth were a reference to a flax mill of the Commission.

(2.) The Minister may, by writing under his hand, certify that a contract, agreement or other instrument to which the Commonwealth is a party is, or is not, a contract, agreement or instrument to which the last preceding sub-section applies, and such a certificate is, in all courts and for all purposes, evidence of the matters stated in the certificate.

(3.) In this section, “the Flax Production Committee” means the Flax Production Committee constituted under the Supply and Development (Flax Production) Regulations.

Regulations.

30. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding a fine of Fifty pounds or imprisonment for a period not exceeding three months, or both, for offences against the regulations.