

DRIED FRUITS ACT.

Act No. 13, 1927.

George V, An Act to make provision for the marketing of dried fruits ; to constitute a Board to deal therewith ; to provide for the registration of producers and persons selling dried fruits, and for the registration of packing sheds dealing therewith ; to provide for a poll of growers to be taken with regard to the bringing into operation of such provisions ; and for purposes connected therewith.
[Assented to, 17th February, 1927.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Dried Fruits Act, 1927."

Commencement.

2. (1) Sections one, two, and to the extent necessary to give effect to subsection two of this section, section thirty-one of this Act shall commence on the day on which this Act receives the Royal Assent and the remaining provisions of this Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Poll of growers.

(2) A proclamation under this section shall not be made unless and until at a poll of growers taken in manner prescribed by regulations made under this Act, in which at least seventy per centum of the growers record their votes, a majority of votes have been given in favour of the Act being brought into full operation.

"Grower"

"Grower" in this section means any person who in the year ending on the thirty-first day of March next preceding the taking of the poll produced more than five hundredweights of dried fruits of any one of the following varieties, namely,—Currants, sultanas, or lexias, from grapes grown in New South Wales.

3. In this Act, unless inconsistent with the context or subject-matter,—^{interpretation.}

"Board" means the Dried Fruits Board constituted by this Act.

"Dealer" means any person not being a grower within the meaning of this Act who sells in any one year, whether on his own behalf or as agent for some other person, more than five tons of dried fruits, but does not include a shopkeeper who sells only such dried fruits as he buys from registered dealers.

"Dried fruits" means dried currants, dried sultanas, or dried lexias produced in Australia.

"Export parity price" of any dried fruits means the selling price for the time being in London of the like Australian dried fruits, less cost of freight, insurance, exchange, duties, and all other charges.

"Grower" means any person who, in any one year, produces more than five hundredweights of dried fruits of any one variety of the dried fruits to which this Act applies.

"Package" includes every sack, bag, barrel, case, box, carton, or other container.

"Packing shed" means any building or erection or other place whatsoever in which dried fruits are stemmed, processed, graded, sorted, or packed for the purposes of trade or sale, whether such building, erection, or place is or is not used for any other purpose.

"Prescribed" means prescribed by this Act or by regulations made thereunder.

"Public notice" means notice published in the Gazette and in at least one newspaper published in Sydney and one country newspaper.

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George V,
No. 13.

**George V,
No. 13.**

"The Commission" means the Water Conservation and Irrigation Commission constituted under the Irrigation Acts, 1912-1926.

The board.

4. (1) There shall be a board, to be called the New South Wales Dried Fruits Board, which shall consist of three members—one, who shall be chairman, appointed from time to time by the Governor, one elected by the growers within the irrigation areas known respectively as Yanco No. 1, Yanco No. 2, Yanco No. 3, Mirrool No. 1, and Mirrool No. 2, and any irrigation area which may be constituted of lands adjoining or adjacent to such irrigation areas, and one elected by the growers within the rest of the State of New South Wales, in the manner hereinafter provided.

(2) The appointed member of the board shall hold office until his appointment is terminated by the Governor.

(3) The elected members shall hold office for a period of two years from date of election and shall, subject to the provisions of subsection three of section seven of this Act, be eligible for re-election.

(4) The Governor may remove any member from office.

(5) If the office of an elected member becomes vacant during the term for which he is elected, a person shall be elected to fill the vacancy:

Provided that, if the vacancy occur within six months of the end of such term, the Governor may appoint a person to fill the vacancy.

Any person so elected or appointed shall hold office during the remainder of such term and no longer, but shall, subject to the provisions of subsection three of section seven of this Act, be eligible for election for an ensuing term.

(6) The Governor may appoint a deputy to act for any member, whether an appointed or an elected member, during his absence.

(7) A deputy shall have the same powers, rights, and duties as the member in whose place he is appointed.

(8) The chairman, elected members, and deputy members of the board shall be paid such fees and allowances as may be prescribed.

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5. (1) The seat of any member shall become vacant if he—

- (a) resign his office by writing under his hand addressed to the Governor; Vacancy.
- (b) without the permission of the board or the chairman fails to attend three consecutive meetings of the board;
- (c) becomes bankrupt or assigns his estate for the benefit of his creditors;
- (d) is convicted of a felony or misdemeanour; or
- (e) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898.

(2) No act or proceeding of the board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done, taken, or commenced there is a vacancy in the office of any member.

6. (1) The board shall be a body corporate with perpetual succession and a common seal, and shall be capable of suing and being sued in its corporate name and of holding and disposing of real and personal property.

(2) All meetings of the board shall be conducted Meetings. as prescribed.

7. (1) The Commission shall cause a roll of growers Elections. to be compiled and revised in the prescribed manner.

(2) Any person shall be eligible for enrolment if he is a grower.

(3) No person shall be qualified to vote or to become a candidate for election as a member of the board unless his name appears on the roll.

(4) For the purposes of any election the Commission may appoint a returning officer.

(5) The elections shall be carried out and the results thereof certified in the prescribed manner.

8. For the purposes of this Act the Commission may Officers. allow the services of any of its officers to be utilised by the board on such terms and conditions as may be agreed upon between the Commission and the board.

George V,**No. 13.****Levy on
growers.****Powers of
board as to
sale or
marketing of
certain dried
fruits for
consumption
in New
South Wales.****Determina-
tions as to
marketing of
dried fruits.****General
powers of
board.**

9. (1) The board may from time to time for the purpose of defraying the expenses of administering this Act and of carrying out its duties and functions thereunder impose a levy on all growers in New South Wales.

(2) Such levy shall be at the prescribed rate per pound on the quantity of dried fruits produced by each grower in the year in respect of which the levy is made.

(3) Such levy shall be made in manner prescribed.

(4) If the amount of any levy remains unpaid for three months after the same is due (the grower liable to pay the same having received notice as prescribed of the amount thereof) the same may be recovered by the board as a debt in any court of competent jurisdiction.

10. In addition to any powers conferred or duties imposed on the board by or under this Act, the board shall have and exercise any prescribed powers and duties for or with respect to the sale or marketing in New South Wales of dried fruits for consumption in New South Wales which have not been purchased or acquired by the Governor.

11. (1) The Minister upon the recommendation of the Board may from time to time by public notice determine what proportion of the output of any dried fruits in any year is to be marketed outside the Commonwealth.

(2) The board in accordance with any such determination may specify in the case of any registered packing shed the proportion of any dried fruits to be so marketed from such packing shed, and shall send by registered letter post to the person in whose name such packing shed is registered at his address as registered a letter containing particulars of such determination and specification.

(3) Any such person who is guilty of any contravention of or failure to comply with any such determination or specification shall be liable to the penalty mentioned in section thirty of this Act.

12. The board shall have power in its absolute discretion from time to time—

(a) to make contracts with any person in respect to the purchase or sale of dried fruits produced in Australia;

(b)

- (b) to enter into contracts with boards appointed under legislation in force in other States with objects similar to those of this Act for concerted action in the marketing of dried fruits produced in Australia and for purposes incidental thereto, and to carry out such contracts;
- (c) to fix the remuneration to be paid to dealers for the sale or distribution of dried fruits;
- (d) to fix the maximum prices to be charged on the sale of dried fruits, whether wholesale or by retail; and
- (e) by means of advertising or any other appropriate means, to encourage the consumption of dried fruits, and create a greater demand therefor.

13. (1) Every person who in the year ending the thirty-first day of March next preceding the taking of the poll, in pursuance of the provisions of subsection two of section two of this Act, produced more than five hundredweights of dried fruits and who at the date upon which this Act is brought into full operation is still engaged in the business of producing dried fruits shall, within one month from such date, register with the board in the manner prescribed.

(2) Every such person shall, so long as he continues in the business of producing dried fruits, furnish to the board, at such times as the board by public notice requires, such particulars as are prescribed with respect to the dried fruits produced or likely to be produced by him during any particular year.

14. Every person who, after the date upon which this Act is brought into full operation, commences to produce dried fruits shall, within one month of his so commencing, register with the board in the prescribed manner.

15. (1) Every person who in the year ending the thirty-first day of March next preceding the taking of the poll, in pursuance of the provisions of subsection two of section two of this Act, sold, whether on his own behalf or as agent for some other person, more than five tons of dried fruits not produced by him from fruit grown by him, and who at the date upon which this Act is brought into full

George V, full operation is still engaged as a dealer in dried fruits
No. 13. shall, within one month from such date, register with
 the board in the prescribed manner.

(2) Every such person shall, so long as he continues to be a dealer in dried fruits, furnish to the board, at such times as the board by public notice requires, such particulars as are prescribed with respect to the dried fruits sold or likely to be sold by him, whether on his own behalf or as agent for some other person, in any particular year.

Registration
of new
dealers.

16. Every person who, after the date upon which this Act is brought into full operation, commences to deal in dried fruits shall, within one month of his so commencing, register with the board in the prescribed manner.

Registration
of packing
sheds.

17. (1) Every packing shed shall be registered with the board by the occupier thereof.

(2) Application for registration shall be made in such form and shall be accompanied by such particulars as are prescribed.

(3) The registration of a packing shed shall expire on the thirty-first day of December in the year when it was effected, and shall be renewed in the prescribed manner.

(4) The registration of a packing shed may at any time during its currency be transferred in favour of any other person approved by the board.

(5) Every application for registration or for the renewal or transfer of registration shall be accompanied by the following fee—

(i) For registration or for renewal of registration, one pound;

(ii) for transfer of registration, five shillings.

(6) Every occupier of a packing shed required by this section to be registered who does not register the same pursuant to this Act shall be liable to a penalty not exceeding two pounds for every day whilst such shed remains unregistered.

e refusal,
c cancellation,
or suspension
of registration
of packing
sheds.

18. The granting or renewal or transfer of the registration of any packing shed may be refused if any of the provisions of this Act or of the regulations with respect thereto are not complied with.

On

On conviction of any person for any offence against George V, any of such provisions the court may suspend or cancel No. 13. the registration of the packing shed.

19. The granting of the registration of any new packing shed in any part of New South Wales may be refused by the board if, in the opinion of the board, there are in that part of New South Wales sufficient packing sheds capable of and available for dealing with the fruit produced in that part of New South Wales:

Provided this section shall not apply in the case of a packing shed used exclusively by a grower for the purpose of packing fruit of his own growing.

20. Any person, being the owner or occupier or unregistered person in charge of any packing shed not registered as required by this Act, or of which the registration is for the time being suspended, who carries on in such packing shed the business of packing dried fruit or of stemming, processing, grading, sorting, buying, or selling dried fruits shall be liable to a penalty of not more than one hundred pounds.

21. (1) For the purposes of this Act or of any contract made by the board, the Governor may on the recommendation of the board and on behalf of His Majesty purchase or compulsorily acquire any dried fruits in New South Wales grown and dried in Australia, not being dried fruits which are held for export under and in accordance with a valid and existing license granted under the Dried Fruits Export Control Act, 1924, of the Parliament of the Commonwealth, or of which the board constituted under that Act has accepted the control for the purposes of that Act or which are included in any contract referred to in section eighteen of that Act:

Provided that the Governor under the powers conferred by this Act shall not acquire compulsorily any such dried fruits in any case where the owner or the person having the control or disposal thereof has exported or arranged to export such quantity as he is licensed to export under and in accordance with such a license as aforesaid, and such further quantity (if any) as is determined by the Governor and for the export of which a license can be obtained under the said Commonwealth Act.

George V,
No. 13.

(2) The Governor may authorise the board to acquire any dried fruits which this Act empowers him to acquire.

(3) Any dried fruits acquired pursuant to this Act may be sold by the board in such manner as it thinks fit.

(4) The Minister, or the board acting on his behalf, may, for the purpose of obtaining money to carry out any acquisition authorised by this section, enter into any agreement with the Government of the Commonwealth or any person or with any bank carrying on business in New South Wales.

(5) Any acquisition or agreement shall be reported to Parliament forthwith if Parliament be then sitting, or if Parliament is not in session, then within fourteen sitting days of the commencement of the next session.

Provisions as
to compulsory
acquisition of
dried fruits.

22. The following provisions shall have effect with respect to the compulsory acquisition of dried fruits under and for the purposes of this Act:—

(a) The Minister by order in writing under his hand, or the board, when authorised under section twenty-one of this Act, by order in writing under its seal, such order being served upon any person being the owner of or having the control or disposal of any dried fruits described or referred to in the order, may declare that such dried fruits are acquired by His Majesty.

In any such order it shall be sufficient to describe the dried fruits so acquired as dried fruits in a certain locality or place or in any other manner by which the dried fruits may be identified.

Effect of
order.

(b) Upon the service of any such order all dried fruits described or referred to in the order shall cease to be the property of the then owner thereof, and shall become and remain the absolute property of His Majesty, freed from any mortgage, charge, lien, or other encumbrance thereon whatsoever.

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The then owner and any agent, manager, attorney, servant, and workman of such owner shall, without delay, hindrance, obstruction, claim, demand, or objection whatsoever, give immediate and peaceable possession of such dried fruits to the board on behalf of His Majesty and all the title and property of the then owner thereof shall be changed into a right to receive payment of the value thereof at the export parity price fixed by the board, to be paid at such times and intervals as the board may by notice published in the Gazette declare:

Provided that in any case where at the time of acquisition any person holds any mortgage, charge, lien, or other encumbrance over any such dried fruits, such person shall be entitled to receive payment, out of the sum which would otherwise be payable to the owner of the principal moneys and interest (if any) for the time being secured thereby in preference to the owner, and only the balance (if any) of the value of such dried fruits shall be paid to the owner.

- (c) The production of any such order or of a copy thereof, or of a telegram purporting to be a demand pursuant to such order and to be signed by the chairman of the board, shall be sufficient authority for the delivery of possession of any dried fruits described or referred to, in such order or demand.
- (d) All dried fruits described or referred to in any such order or demand may, without any warrant other than this Act, be seized and taken possession of by any officer authorised, either generally or in any particular case, in writing by the chairman of the board in that behalf.

Such officer, with any necessary assistance, may, for any of the purposes of this section, enter any place at any time and use any force which may be necessary.

(e)

George V,
No. 13.

Penalty
for refusal
to deliver
and for
obstruction,
&c.

Dispute as
to amounts
payable.

Effect of
receipts.

Returns of
dried fruits.

- (e) Any person who refuses to deliver, or delays or obstructs or hinders the delivery of, any dried fruits described or referred to, in any such order or demand shall be liable to a penalty of not more than one hundred pounds; and if such person is a company the individual person guilty of the offence, and also the managing director or other manager in New South Wales of the company, shall each be liable to the like penalty.
- (f) In the event of any doubt or dispute as to the person legally entitled to receive any moneys payable under this section, the board may pay the same into the Supreme Court in its equitable jurisdiction, to abide the order of that Court.
- (g) The receipt given by any person to the board for any moneys paid for any dried fruits acquired under this section shall be a sufficient discharge to the board in respect of the liability to make payment therefor.

Nothing in this paragraph shall prejudice or affect the right of any person claiming to be entitled to receive any such moneys to recover the same from any person to whom the board has paid the same.

23. (1) The board may by notice published in the Gazette, and in a newspaper circulating in the locality, require all or any persons having within a locality therein mentioned any dried fruits in excess of a quantity specified in the notice, owned by them or in their disposal or under their control for the purposes of trade or sale, to make returns of such dried fruits.

(2) Such returns shall be in the form and shall contain the particulars and shall be made within the time and to the persons prescribed.

(3) If any person to whom such a notice applies fails, neglects, or refuses to make such a return, he shall be liable to a penalty of not more than one hundred pounds.

24. No action, claim, or demand whatsoever, shall George V, lie or be made or allowed by or in favour of any person No. 13. whomsoever against His Majesty or the Minister or the Indemnity Commission or the board or any member thereof or any officer or person acting in the execution of this Act for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of the passing of this Act or of its operation or of anything done or purporting to be done under this Act save only for the price pursuant to this Act payable for any dried fruits purchased or acquired under this Act.

25. (1) The board may at any time, by notice in writing given to any dealer, require him to furnish to the board any particulars with respect to the dried fruits sold or likely to be sold by him, whether on his own behalf or as agent for some other person, in any particular year, and may, by notice in writing given as aforesaid, give to any dealer such directions with respect to such dried fruits as the board thinks proper, in order to ensure the observance of any determination for the time being in force.

(2) The board may at any time, by notice in writing given to the owner, occupier, or person in charge of any packing shed, require such owner, occupier, or person to furnish to the board within the time mentioned in the notice any particulars with respect to the dried fruits which are at the time or have previously been or are likely to be in such packing shed for the purpose of being stemmed, processed, graded, sorted, or packed, and may, by notice in writing given as aforesaid, give to any such owner, occupier, or person such direction as the board thinks proper in order to ensure the observance of any determination for the time being in force.

(3) Any person who fails to comply with any requirement or direction of the board under this section shall be liable to a penalty not exceeding five hundred pounds.

(4) Any notice required to be given to any person for the purposes of this section may be served personally or sent by post addressed to such person at his usual or last known place of abode: Provided that

George V, a notice sent by post to the owner, occupier, or person in charge of a packing shed may be addressed to such owner, occupier, or person at the packing shed.

Concerted action between Commonwealth and States.

26. The Premier of New South Wales may—

(a) join either with—

(i) the Prime Minister of the Commonwealth and the Premiers of the States thereof or any of them; or

(ii) The Premiers of such States or any of them—

in any arrangements for concerted action in the marketing of Australian dried fruits; and

(b) on behalf of the Government of New South Wales agree to any such arrangement and do any acts, matters, or things necessary or expedient to carry the same into effect.

Board to keep accounts.

27. (1) The board shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums of money received and paid for on account of this Act or pursuant thereto and of the several purposes for which sums of money have been received and paid.

(2) The accounts of all moneys received and paid as aforesaid shall be audited by the Auditor-General who shall have with respect to such accounts all the powers conferred on him by the Audit Act, 1902.

(3) The board shall furnish to the Minister a true copy of the accounts so audited as aforesaid together with a particular statement of the moneys received by the board and of the expenditure thereof.

(4) Copies of such accounts and of such statement shall be laid before both Houses of Parliament if then sitting, or if not, then within fourteen sitting days after the commencement of the next session.

(5) All moneys received by the board under this Act shall be paid to an account in Special Deposits Account in the Treasury, and such moneys shall be made available to the board for the purpose of meeting any expenses incurred in the administration of this Act.

Offences

*Offences and penalties.*George V,
No. 13.

28. Any person being a grower or a dealer or the owner or occupier or person in charge of any packing shed, who sells or otherwise disposes of any dried fruits contrary to any determination of the board applying to such fruits and notified to him in manner prescribed, shall be liable to a penalty not exceeding five hundred pounds.

29. (1) While any regulation made under this Act prescribing standards of quality for different grades of dried fruits and the grade description or grade mark to be used with respect to each standard is in force, every person shall be liable to a penalty of not more than one hundred pounds who—

(a) packs any dried fruits in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark prescribed to be used for dried fruits of the quality packed in the particular package;

(b) has in his possession any dried fruits contained in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark prescribed to be used for dried fruits of the quality contained in the particular package; or

(c) by the use of any description or mark on a package containing dried fruits represents such fruits to be of a particular standard, whereas in fact such fruits are not of that standard.

(2) Where it is made to appear to the satisfaction of any inspector or officer appointed under this Act, or any member of the police force, at the time of discovering an offence—

(a) that the person primarily liable has used all due diligence to avoid a breach of this section; and

(b) by what person the offence has been committed; and

(c)

**George V,
No. 13.**

- (c) that it has been committed without the knowledge, consent, or connivance of the person primarily liable,

the said inspector, officer, or member of the police force shall proceed against the person whom he believes to be the actual offender without first proceeding against the person primarily liable.

Penalties.

30. (1) Any person contravening any of the provisions of this Act shall, when no other penalty is expressly provided, be liable on conviction to a penalty not exceeding one hundred pounds.

(2) Penalties imposed by this Act or by any regulation made thereunder may be recovered in a summary manner before a stipendiary or police magistrate or any two justices in petty sessions.

Regulations.

Regulations.

31. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which 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 and without limiting the generality of the foregoing power, the Governor may make regulations for or with respect to—

- (a) the purchase, acquisition, sale, or marketing or the arranging for the purchase, acquisition, sale, or marketing of dried fruits;
- (b) the inspection of, and the granting of certificates as to the quality of, dried fruits intended for sale;
- (c) the branding, marketing, or labelling of packages containing dried fruits;
- (d) the registration of growers, dealers, and packing sheds, and the particulars to be furnished to the board by the applicants for registration;
- (e)

George V,
No. 13.

- (e) fixing standard of quality for different grades of dried fruits and the grade description or grade mark to be respectively used for packages containing dried fruits intended for sale within the State of New South Wales;
- (f) the distribution of dried fruits so as to ensure reasonable prices being charged to the public;
- (g) limiting and controlling selling and agency charges for the sale and distribution of dried fruits.

(2) Such regulations may prescribe penalties not exceeding one hundred pounds for any breach thereof.

(3) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution, of which notice has been given, at any time within fifteen sitting days after such regulations have been laid before such House, disallowing any regulations or part thereof, such regulation or part shall thereupon cease to have effect.

CLOSER