

Peanut Industry Protection, Etc., Act. 3 GEO. VI. No. 23,

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No. 23.

THE PEANUT
INDUSTRY
PROTECTION
AND
PRESERVATION
ACT OF
1939.

An Act to Make Better Provision for the Control of Diseases Affecting Peanuts and for the Protection and Preservation of the Peanut Industry of Queensland, and for other purposes.

[ASSENTED TO 1ST DECEMBER, 1939.]

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

Short title
and
commence-
ment.

*1. (1.) This Act may be cited as "*The Peanut Industry Protection and Preservation Act of 1939*," and shall come into operation on a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*, which date is hereinafter referred to as the commencement of this Act.

Construc-
tion.

(2.) This Act shall be read and construed with † "*The Primary Producers' Organisation and Marketing Acts, 1926 to 1938*," but in so reading and construing this Act every provision of such last-mentioned Acts shall be deemed to be modified to such extent as may be necessary to give full operation and effect to each and every provision of this Act.

Constitu-
tional
interpreta-
tion of Act.

2. This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment thereof would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Meanings
of terms.

3. In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

Abandoned
or neglected.

"Abandoned or neglected"—The term when used with reference to any land means and includes any land or any portion of any land which is

* Act proclaimed in force on and from 18th December, 1939. See Proclamation dated 14th December, 1939, and published in *Gazette* of 16th December, 1939, at page 2168.

† 17 Geo. V. No. 20 and amending Acts, *supra*, pages 11659 *et seq.*

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not receiving adequate care and attention, and which in the opinion of an inspector has been uncultivated or neglected during a period of not less than six months prior to the inspection by the inspector thereof, and where by reason of such inadequate care and attention, non-cultivation, or neglect such land or portion thereof is liable to harbour and spread any disease ;

- “ Board ”—The Peanut Board being the ^{Board.} Commodity Board constituted in relation to peanuts by the Governor in Council under **“ The Primary Producers’ Organisation and Marketing Acts, 1926 to 1938,”* and appointed under those Acts as prescribed therein ;
- “ Buy ”—Includes barter, exchange, and agree to ^{Buy.} buy, barter, or exchange, and derivatives of the word “ buy ” shall have a corresponding inclusive meaning ;
- “ Disease ”—Seedling blight, wilt, leaf spot, ^{Disease.} chlorosis, bunchy plant, leaf curl, rosette disease, and any other disease affecting peanuts caused by or consisting of the presence of any insect or fungus, and any other disease affecting peanuts which the Governor in Council, from time to time, by Proclamation, declares to be a disease within the meaning of this Act, and whether or not caused by or consisting of the presence of any insect or fungus: without limiting the generality of the above definition, the term may include the presence of suspicious symptoms which, although not ascertainable as a certain specific disease, in the opinion of the Minister should be deemed a disease for the purposes of this Act ;
- “ Diseased ”—Affected with disease or liable, by ^{Diseased.} reason of having been in proximity, to be affected with disease ;
- “ Fungus ”—Any fungus, virus, or vegetable ^{Fungus.} parasite which the Governor in Council from time to time by Proclamation declares to be a fungus within the meaning of this Act, in whatever stage of existence such fungus, virus, or vegetable parasite may be ;

* 17 Geo. V. No. 20 and amending Acts, *supra*, pages 11659 *et seq.*

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- Insect.** “Insect”—Any insect which the Governor in Council from time to time by Proclamation declares to be an insect within the meaning of this Act, in whatever stage of existence such insect may be: for the purpose of this Act the term “insect” also includes “mites”;
- Inspector.** “Inspector”—Any inspector appointed under this Act or under **“The Diseases in Plants Acts, 1929 to 1937,”* or any person authorised by the Minister to perform the duties of any such inspector;
- Minister.** “Minister”—The Secretary for Agriculture and Stock or other Minister of the Crown charged for the time being with the administration of this Act;
- Occupier.** “Occupier”—The term, when used with reference to land or any place upon land, means and includes the person in occupation of such land, premises, or place, or where peanuts are planted and/or growing upon land, then the person in occupation of the land upon which such peanuts are planted and/or growing.
- If reasonable inquiry by an inspector establishes that at the time of the commission of the alleged offence or other the material time within the meaning of this Act there was no occupier of any land, premises, or place, or if an inspector cannot after reasonable inquiry find the person who is the occupier then, and in any such case, the owner shall be and be deemed to be the occupier of the land or place concerned for all purposes of this Act;
- Owner.** “Owner”—With reference to land, the person other than His Majesty who is for the time being entitled to receive the rent of the land, or who if the same were let to a tenant at a rack rent would be entitled to receive such rack rent: the term also includes the holder of any lease or license or permission from the Crown, or any person deriving title thereunder;

* 20 Geo. V. No. 11 and amending Acts, *supra*, pages 12391 *et seq.*

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- “Package”—Includes every means by which peanuts or any peanut product for carriage or for storage or for sale may be cased, covered, enclosed, contained, or packed : and “pack” and derivatives of the word “pack” shall have a corresponding inclusive meaning ; Package.
- “Person”—Includes any partnership or firm and any body or association of persons corporate or unincorporate ; Person.
- “Place”—Includes any building, structure, ship, barge, boat, vehicle, car, aeroplane, station, wharf, shed, or any land or premises whatsoever and wheresoever situated ; Place.
- “Prescribed”—Prescribed by this Act ; Prescribed.
- “Quarantine area”—Any land or place declared by the Governor in Council by Proclamation published in the *Gazette* to be a quarantine area for the purpose of the more effectual control of a disease ; Quarantine area.
- “Regulations”—Regulations made under this Act ; Regulations.
- “Sell”—Includes barter, exchange, agree to sell, barter or exchange, offer or expose for sale, have in possession for sale, receive, send, forward, or deliver for or on sale, and cause, suffer, or attempt any of such acts or things : and words derived therefrom have a corresponding inclusive meaning ; Sell.
- *“*The Primary Producers’ Organisation and Marketing Acts, 1926 to 1938*”—A reference to such Acts shall include any Act amending or in substitution for such Acts ; “*The Primary Producers’ Organisation and Marketing Acts, 1926 to 1938.*”
- “This Act”—This Act and all Proclamations, Orders in Council, and regulations made hereunder ; This Act.
- “Under Secretary”—The Under Secretary, Department of Agriculture and Stock : the term includes any person for the time being discharging the duties of that office ; Under Secretary.
- “Year”—The period of time from and including the first day of July in any one calendar year to and including the thirtieth day of June of the next succeeding calendar year. Year.

* 17 Geo. V. No. 20 and amending Acts, *supra*, pages 11659 *et seq.*

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Indemnity.

4. No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against His Majesty or the Minister or the Under Secretary or any inspector, officer, or person acting in the execution of this Act or the Board or any member, officer, agent, or servant of the Board 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 omitted to be done or purporting to be done or omitted to be done under this Act.

Board to administer Act.

5. (1.) The Board shall, subject to the Minister, be charged with the administration of this Act.

Appointment of inspectors, &c.

(2.) The Board may, with the approval of the Minister, appoint such inspectors and other officers as may be necessary for the purpose of giving effect to or for the convenient carrying-out of this Act.

The Minister may authorise any officer or employee of the Board to act as an inspector under and for the purposes of this Act.

Powers in aid of Act.

6. The Governor in Council may from time to time by Proclamation declare—

Introduction of peanuts.

(i.) That the introduction into Queensland from another State in the Commonwealth, or into any portion of Queensland specified in such Proclamation, of any peanuts which are in his opinion likely to introduce any insect, fungus, or disease shall be either absolutely prohibited or permitted only as prescribed;

Removal of peanuts.

(ii.) That the removal of any peanuts from or out of any place, or from or out of one portion of any place to any other portion of the same place, shall be either absolutely prohibited or permitted only as prescribed;

Disease, &c.

(iii.) Any disease affecting peanuts to be a disease, or any fungus to be a fungus, or any insect to be an insect, respectively, within the meaning of this Act.

Introduction or removal of peanuts, &c., contrary to Act.

7. (1.) No person shall introduce or cause to be introduced into Queensland or into any portion of Queensland peanuts or any insect or fungus contrary to this Act.

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(2.) No person shall remove or cause to be removed from or out of any place or from or out of one portion of any place to any other portion of the same place any peanuts contrary to this Act.

(3.) No person shall import, introduce, bring, transfer, or cause or permit to be imported, introduced, brought, or transferred into Queensland any insect or fungus except for scientific purposes only and with the consent of the Minister.

8.—

(a) Every insect and every fungus and all peanuts introduced into Queensland, or into any portion of Queensland, or removed from or out of any place or from or out of one portion of any place to any other portion of the same place, contrary to this Act; and

Insects, fungi, packages, &c., may be seized.

(b) All diseased peanuts introduced into Queensland or removed from one part of Queensland to another part thereof; and

(c) Every box, basket, package, or case harbouring, infested by, or containing any such insect, fungus, or peanuts, as in paragraph (a) or (b) hereof mentioned,

may forthwith be seized by or on the order of the Minister or any inspector, and shall be dealt with, whether by the destruction thereof or otherwise, as the Minister or such inspector may direct.

9. Any inspector may—

(a) Seize and detain any peanuts suspected to be diseased which are being introduced into Queensland or removed from one part of Queensland to another part thereof, or from or out of any place, or from or out of one portion of any place to any other portion of the same place, and every package, or any other material, which is suspected to contain any diseased peanuts, or to harbour or to be infested by any insect or fungus, and remove and examine the same: and further may take away specimens in respect of such peanuts, packages, or other materials for examination or as may be otherwise directed by the Minister;

Powers of inspectors.

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- (b) Seize and detain any peanuts which he suspects have not been graded by the Board or any peanut product which he suspects is the product of peanuts which have not been graded by the Board;
- (c) Without notice, and with or without such assistants as he may think fit, enter at all reasonable times into or upon any place, and there search for and examine any peanuts, insect, fungus, or any peanut product, and at any place whatsoever examine and inspect any package, or any other material that harbours or is likely to harbour any insect or fungus, and may remain on such place so long as may be reasonably necessary for such purpose: and further may take away specimens in respect of any peanuts, peanut product, packages, materials, or any other matter or thing for examination or as may be otherwise directed by the Minister.

The marking with a broad arrow by an inspector of any peanuts, peanut product, package, or other material seized and detained under paragraph (a) or paragraph (b) of this section shall be sufficient notification to all persons concerned that the inspector has so seized and detained such peanuts, peanut product, package, or other material, as the case may be.

In addition to such powers as aforesaid an inspector shall have such powers of inspecting books, accounts, and records, and of taking copies thereof or of entries therein as may be prescribed.

When occupier or owner may be ordered to eradicate peanuts, &c.

10. (1.) When any inspector finds, or finds in or upon any place, any peanuts, or peanut plants or the produce thereof which he reasonably suspects to be diseased, or any insect or fungus harbouring in any place, package, material, or other thing, or existing in or upon any part of such place, he may issue an order to the occupier or, if there is no occupier, then to the owner of such place, or to the owner or person apparently in charge of any such package, material, or other thing directing him either forthwith or within a time to be fixed by the order to destroy in such manner as is directed by such order or as is prescribed all such peanuts, or peanut plants, or the produce thereof, reasonably suspected to be diseased

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and all such insects and fungi, and also (if in his opinion it is necessary) all such packages, materials, and things, and in the case of diseased peanuts, or peanut plants, or the produce thereof, to take all such further or other measures for the eradication of disease as are in his opinion necessary or as are prescribed :

Provided that when any inspector finds any peanuts, or peanut plants, or the produce thereof reasonably suspected to be diseased, or any such package, material or other thing as aforesaid in the possession of the Commissioner for Railways or any other carrier, the inspector may, in lieu of issuing such order as aforesaid to any of the abovementioned persons, issue such order to the consignee or consignor of such peanuts, or peanut plants, or the produce thereof, package, material, or other thing.

(2.) When in the opinion of the inspector it is necessary for the prevention of the spread of any disease that any peanuts, or peanut plants, or the produce thereof, which are or is not affected thereby should be destroyed, he shall report the fact to the Minister, who may thereupon issue an order to the occupier or, if there is no occupier, to the owner of the place whereon such peanuts, or peanut plants, or the produce thereof is or are, directing him to destroy same within a time after the service of such order to be therein stated, and in such manner as is thereby directed or as is prescribed, and also to take such further or other measures for the prevention of disease as are in his opinion necessary or as are prescribed.

11. If any owner or occupier or person apparently in charge of any place fails to comply with the direction contained in any order of an inspector or the Minister served upon him, any inspector, with or without assistants, may enter upon the place in question at any time and do all such things and take all such measures as may be necessary for the enforcement of such order.

When inspectors may take measures to enforce order.

This section shall not prejudice any other provision of this Act whereby a penalty may be recovered against any person for any such failure as aforesaid, and any such penalty may be recovered whether or not an inspector has exercised his powers under this section.

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Recovery
of costs,
charges, and
expenses.

12. The amount of any costs, charges, and expenses, together with interest at the prescribed rate, incurred by any inspector in or about taking such measures as aforesaid shall be recoverable from the occupier or, if there is no occupier, then from the owner of the place, by complaint in a summary way or by action in any court of competent jurisdiction :

Provided that if any person convicted of an offence against this Act has failed to pay any such amount as aforesaid the adjudicating court may, in addition to or in lieu of a penalty, order him to pay such amount :

Provided further, that an unsatisfied judgment or order for the recovery of any such costs, charges, or expenses shall not be a bar to the recovery thereof from any other person liable to the payment thereof.

Abandoned
land.

13. (1.) If an inspector reports to the Minister that any place upon which peanuts are growing is an abandoned or neglected place as defined by this Act, the Minister may give notice to the occupier or, if there is no occupier, then to the owner of the land in which such place is comprised, that he has decided to exercise the powers conferred upon him by this section. Any person aggrieved by a decision of the Minister under this subsection may appeal therefrom in the manner prescribed to a court of petty sessions constituted by a police magistrate, whose decision shall be final and conclusive and without appeal.

(2.) If within a period to be prescribed an appeal has not been lodged by such occupier or owner, or his appeal has proved unsuccessful, the Minister may order all peanut plants, and the produce thereof in or upon the place which in the opinion of an inspector are likely to harbour or spread any disease to be destroyed in such manner as is directed by such order or as is prescribed.

(3.) Failure on the part of the occupier or owner, as the case may be, to comply with any such order shall constitute an offence under this Act, and moreover the provisions of sections eleven and twelve of this Act shall, *mutatis mutandis*, apply and extend accordingly.

Quarantine
areas.

14. (1.) Without in any way limiting the operation and scope of any other provision of this Act, the Governor in Council may from time to time by Proclamation declare any area to be a quarantine area

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for the purposes of this Act, and may prescribe the period of quarantine and define the boundaries of such quarantine area in such Proclamation :

Provided that the Governor in Council may by Proclamation suspend for any period, or extend for any period, or may cancel any existing Proclamation so declaring a quarantine area.

(2.) In any quarantine area so proclaimed, such Proclamation may set forth the reason for and/or nature of the quarantine to be imposed in such area, or the Minister may declare the nature of the quarantine that shall be so imposed in such area, or in respect of the undertaking mentioned in the next following subsection, and any inspector is hereby authorised and empowered to give such orders and to take such action as may be deemed necessary for the purposes of such quarantine accordingly.

Minister may declare nature of quarantine.

(3.) The Minister may if he thinks fit, instead of declaring land to be a quarantine area, accept an undertaking in the prescribed form given by the occupier or owner of the land to comply with the requirements mentioned therein. Upon such undertaking being given, the land mentioned therein shall for the period therein specified be deemed to be a quarantine area, and the person giving the undertaking shall comply with all the terms and conditions thereof.

Undertaking in certain cases.

(4.) Any quarantine area may be so proclaimed notwithstanding that in such area there is an absence of any disease or pest.

Quarantine area where absence of disease or pest.

In any quarantine area the quarantine may be general or in respect of a particular disease or pest.

Any quarantine may be determined or declared in respect of a particular disease or pest, notwithstanding that the area is already declared a quarantine area for some other disease or pest.

(5.) The duties and obligations and any course of action to be taken by the occupier, or if there is no occupier by the owner, of any land in any such quarantine area shall be as are prescribed or as may be directed by the Minister.

Duties and obligations of occupier or owner.

(6.) The Governor in Council on the recommendation of the Minister may by Order in Council published in the *Gazette* apply to any specified part of a quarantine area any special provisions, conditions, and stipulations

Specified part of area.

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(of a more drastic nature) and any further duties and obligations to be obeyed and to be given effect to by any occupier, or if there is no occupier by any owner, of land in any such specified part of a quarantine area as prescribed in the Order in Council.

Such special provisions, conditions, and stipulations, and any further duties and obligations may be in addition to any other duties and obligations and course of action as aforesaid prescribed in the quarantine area in which the specified part as aforesaid is embraced.

Power to declare that plants should be treated for disease.

(7.) The Governor in Council on the recommendation of the Minister may by a like Order in Council direct that all peanuts and/or peanut plants and the produce thereof within a quarantine area or within some specified part thereof as aforesaid shall be treated in such manner as may be directed by such order or as may be prescribed for the disease or pest in respect of which the quarantine is imposed, whether the same are diseased or infested or not.

Inspector may enforce quarantine directions.

(8.) If the occupier or owner of any land or place within a quarantine area fails to comply with the directions contained in any Proclamation or Order in Council, or given by the Minister, or with any order given by an inspector, or with any term or condition of an undertaking given by him, any inspector with or without assistants may enter upon such land or place in question at any time and do all such things and take all such measures as may be necessary for the enforcement of such directions, order, or undertaking, as the case may be; and the provisions of section twelve of this Act shall, *mutatis mutandis*, apply and extend accordingly.

This subsection shall not prejudice any other provision of this Act whereby a penalty may be recovered against any person for any such failure as aforesaid, and any such penalty may be recovered whether or not an inspector has exercised his powers under this subsection.

When removal or planting an offence.

(9.) It is hereby declared that the removal, planting, or the delivery to any person of any peanuts from or within a quarantine area (other than as specified by any Proclamation, declaration, or Order in Council as aforesaid) shall be prohibited unless permission for such removal, planting, or delivery is granted by the Minister or by an inspector, either generally or in any particular case, and in accordance with any directions imposed by

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the Minister or inspector therein. Any person offending against the provisions of this subsection shall be guilty of an offence against this Act.

Where peanuts are removed or planted contrary to the provisions of this subsection the following persons shall be deemed to have offended against this subsection and shall be liable accordingly, namely :—

- (a) The person who makes or causes to be made such removal or planting ; and
- (b) The occupier or, where there is no occupier, the owner of the land upon which such planting takes place ; and
- (c) In the case of any such removal the occupier or, where there is no occupier, the owner, respectively, of the land from which and of the land to which such removal takes place.

15. The Minister may from time to time by notification in the *Gazette* declare any area or areas within the State where peanuts are grown to be disease-infected. Any area so notified is herein referred to as a "peanut-disease infected area."

Peanut-disease infected area.

The Minister may from time to time by like notification—

- (a) Alter the boundaries of a peanut-disease infected area, whether by exclusion of land therefrom or inclusion therein of other land ;
- (b) Combine two or more such areas into one such area whether or not such areas are contiguous ;
- (c) Abolish any such area.

16. The Board shall be charged with the duty of suppressing and preventing disease within any such area, and the Board shall observe all directions given by the Minister in that behalf, and shall have power to take all proper steps within any such area for the suppression and prevention of diseases :

Powers and duties of Board.

Provided that in any case where any peanuts or peanut plants, or any produce thereof within a peanut-disease infected area (not being diseased peanuts under and within the meaning of section twenty-seven of this Act, or peanut plants or the produce of peanut plants grown therefrom) is or are destroyed by or under the direction of the Minister or of an inspector, the Board

may pay from its funds to the owner thereof such compensation as is adjudged reasonable by the Governor in Council, or, if the owner of such peanuts is aggrieved by the decision of the Governor in Council and applies to have the matter referred to an assessor, by an assessor to be appointed by the Governor in Council, and the decision of the assessor shall be final.

The reasonable costs and expenses of any such assessment of compensation by an assessor shall be charged against and paid out of the funds of the Board.

Notice to be given of appearance of disease.

17. The occupier of any land or place in or upon which any disease appears shall, within twenty-four hours or such other further time as may be prescribed after first discovering or becoming aware of its appearance and/or at such times as may be prescribed, give written notice thereof to an inspector or to the Under Secretary.

This section applies only in respect of the diseases to which it is from time to time made applicable by the Governor in Council by Proclamation published in the *Gazette*.

Power to require owner or occupier of land, &c., to destroy or prevent spread of disease.

18. When an inspector finds upon any land or place any disease he may forthwith serve on the occupier or, in case there is no occupier, the owner of such land or place a notice requiring him to take such measures or do such acts as are specified in such notice or as are prescribed to eradicate or prevent the spread of such disease.

Steps to be taken when land is infected.

19. Whenever disease exists on any land or place, an inspector may forthwith serve on the occupier or, if there is no occupier, the owner a notice requiring him to quarantine the land or place and peanuts, peanut plants, and the produce of peanut plants thereon for a period not exceeding twenty-one days, and to take such measures or do such acts as are specified in such notice, or as are prescribed.

Such notice may name a time at which the doing of anything thereby required shall be commenced, and a time within which it shall be completed.

Application of ss. 11 and 12.

20. If any occupier or owner fails to comply with any notice given by an inspector pursuant to section eighteen or section nineteen of this Act, the provisions of sections eleven and twelve of this Act shall, *mutatis mutandis*, apply and extend in respect of the land or place concerned.

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21. (1.) The Board shall estimate annually as nearly as may be the consumption of peanuts for edible purposes within Australia and the quantity of peanuts required for planting purposes within Queensland during each year.

Annual estimate of consumption of peanuts for edible purposes within Australia plus requirements for planting purposes.

(2.) The first such estimate shall be for the year commencing on the first day of July, one thousand nine hundred and forty, and shall be so made on or before the last day of December, one thousand nine hundred and thirty-nine.

(3.) Such estimate for the second and every subsequent year thereafter shall be so made on or before the last day of September of the calendar year next preceding the calendar year in which the year for which the estimate is made commences.

(4.) Every such estimate shall be made upon such basis as may be prescribed but, in so far as not prescribed, a separate estimate shall be made of the various quantities of the different varieties of peanuts.

22. (1.) The Board shall, within thirty days after it has made any annual estimate prescribed by section twenty-one of this Act, compile a list setting out the names and addresses of all growers and further setting out opposite and relative to the name of each grower the maximum quantity of peanuts of the respective varieties which he may supply to the Board for sale for consumption for edible purposes within Australia and/or for planting purposes within Queensland during the year to which such annual estimate relates.

Board to determine maximum quantity of peanuts for consumption in Australia for edible purposes plus planting purposes in Queensland which each grower may deliver.

(2.) The maximum quantity as aforesaid shall be determined for each grower upon such basis as may be prescribed or, in so far as not prescribed, upon the following basis, that is to say:—

- (i.) In respect of the list so published in relation to the annual estimate for the year commencing on the first day of July, one thousand nine hundred and forty, upon the basis of the quantity of peanuts of the respective varieties which any grower concerned would be entitled to deliver to the Board pursuant to the arrangement (if any) arrived at by the Board for that year before the commencement of this Act; and

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(ii.) In respect of the list so published in relation to the annual estimate for any year subsequent to the year commencing on the first day of July, one thousand nine hundred and forty, upon the basis of the quantity of peanuts of the respective varieties supplied under this Act by the grower concerned during the year next preceding the year to which such estimate relates.

(3.) The Board shall, within seven days after the compilation of any such list, notify in newspapers circulating respectively in the Brisbane, Kingaroy, Rockhampton, and Atherton districts, and in such other districts as the Minister may direct, that such list has been so compiled and may be inspected by all growers concerned at the Board's head office at Kingaroy, and at all depôts for the time being maintained by the Board, and at such other places (if any), as the Minister may direct :

Moreover the Board shall post a prepaid post letter to each grower whose name appears in such list addressed to him at his place of abode last known to the Board and informing such grower of the maximum quantity so specified in his case.

Appeal by
grower
against
maximum
quantity
determined
in his case.

23. (1.) Any grower who is dissatisfied with the maximum quantity so determined under section twenty-two of this Act in his case may apply to the Board for a review of such determination:

Provided that such application shall be so made in writing to the secretary of the Board within four weeks of the compilation of the list and shall set out as briefly as may be the grounds upon which it is based.

(2.) The Board shall review every determination in respect of which an application for review is duly made under subsection one of this section, and shall post a prepaid post letter to each applicant for such review addressed to him at his place of abode last known to the Board and informing him of the decision of the Board upon such revision :

Provided that every such decision shall be so served within the twenty-one days next succeeding the last day for the making of applications under subsection one of this section.

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(3.) Any grower who makes an application for review under subsection one of this section, may, within twenty-one days after the receipt by him of the decision of the Board upon such review, if he is dissatisfied with such decision notify the secretary of the Board in writing that he desires to have such maximum quantity determined by the Director of Marketing, and the secretary shall make application accordingly to the Director of Marketing.

Such application shall be accompanied by the grounds in writing submitted by the grower concerned to the Board with his application for review and shall also set out as briefly as may be the grounds upon which the Board based its determination and its decision upon the review thereof.

(4.) Upon application made to him in that behalf under subsection three of this section the Director of Marketing may determine the maximum quantity of the grower concerned:

Provided that before making such determination the Director of Marketing may, at his discretion, make such further investigation as he shall think fit, and for the purposes of any such further investigation shall have and may exercise all of the powers, authorities, protection, and jurisdiction of a commission under and within the meaning of **"The Official Inquiries Evidence Acts, 1910 to 1929."*

(5.) If the Director of Marketing is of opinion that the determination made by him cannot reasonably be given effect to in respect of the year to which it relates, he may direct the Board to give effect thereto in respect of the next succeeding year, and, in that event, may give such further directions as he shall think necessary to compensate the grower concerned for any loss occasioned to him by such postponement.

24. (1.) Every grower shall be entitled to deliver to the Board, and the Board and its authorised agents shall accept delivery from each such grower for sale by the Board, for consumption for edible and/or planting purposes of a quantity of peanuts of any particular variety not exceeding the maximum quantity of such variety specified in such annual list opposite and relative to his name.

Grower entitled to deliver maximum quantity determined in his case.

* 1 Geo. V. No. 26 and amending Act, *supra*, pages 748 *et seq.*

When
Board
to sell
peanuts for
edible
and/or
planting
purposes.

(2.) Subject as hereinafter provided, the Board shall sell for edible and/or planting purposes the total quantity of each variety of peanuts delivered to it under subsection one of this section and shall, out of the proceeds of such sale, make payments to each grower who delivered any quantity of peanuts of such variety on the basis of the net proceeds of the sale as aforesaid of the total quantity of such variety so delivered, due regard being had to the quality and standard of the variety concerned.

All of the provisions of **"The Primary Producers' Organisation and Marketing Acts, 1926 to 1938,"* except subsection two of section eighteen thereof shall, *mutatis mutandis*, apply and extend with respect to payment by the Board for such peanuts :

Provided that if the Board is unable to sell the total quantity of peanuts of any variety estimated by it to be required for edible consumption in Australia and/or planting purposes in any year, it shall allot the net proceeds of the quantity of peanuts of such variety so sold by it among the growers concerned in proportion to their deliveries :

Provided further, that any amount of the quantity of peanuts of any variety delivered by a grower under subsection one of this section which fails to comply with the grade standards prescribed for edible peanuts and/or peanuts for planting purposes shall be deducted from such quantity, and any amount so deducted shall be deemed to have been delivered to the Board under **"The Primary Producers' Organisation and Marketing Acts, 1926 to 1938,"* and not under this Act.

(3.) Any peanuts of any variety delivered to the Board pursuant to this Act for sale for edible purposes in Australia and/or for planting purposes which the Board is unable to so sell may be sold by the Board pursuant to its powers under **"The Primary Producers' Organisation and Marketing Acts, 1926 to 1938,"* respecting peanuts delivered to it under that Act but which are not delivered pursuant to this Act, and the net proceeds of such sale shall be added to and be deemed to be included in the net proceeds of the sale of all peanuts of such variety last hereinbefore mentioned.

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25. If the total of the deliveries of any variety of peanuts delivered in any year by all growers for sale by the Board for consumption for edible purposes in Australia and/or for planting purposes is less than the quantity of that variety so sold by the Board in respect of that year, then the Board may supply such deficiency from peanuts of that variety delivered by growers under **"The Primary Producers' Organisation and Marketing Acts, 1926 to 1938,"* but not so delivered pursuant to this Act.

How Board may supply deficiency in deliveries for sale for consumption for edible and planting purposes.

The net proceeds of the sale of peanuts of such variety so sold to supply such deficiency shall be added to and be deemed to form part of the net proceeds of the sale of all peanuts of that variety delivered to the Board under **"The Primary Producers' Organisation and Marketing Acts, 1926 to 1938,"* but not so delivered pursuant to this Act.

26. (1.) No person shall sell or otherwise dispose of or buy or otherwise obtain any peanuts unless such peanuts have been graded by the Board and comply with such grading, and no person shall sell or otherwise dispose of or buy or otherwise obtain any peanut product unless such product is the produce of peanuts which have been graded by the Board and comply with such grading.

Sale of ungraded peanuts prohibited.

(2.) The foregoing provisions of this section shall not apply—

Saving.

- (a) To a delivery by a grower of peanuts grown by such grower to the Board or its authorised agent ; or
- (b) To a retail sale of peanuts or any peanut product to a customer by a grocer, storekeeper, or other retail seller other than a grower or to the retail buying thereof by such customer from such grocer, storekeeper, or seller other than a grower.

27. (1.) No grower shall plant in Queensland any peanuts unless such peanuts have been treated in the prescribed manner and have been certified by the Board to be apparently free from disease.

Use for seed of peanuts not certified apparently free from disease prohibited.

* 17 Geo. V. No. 20 and amending Acts, *supra*, pages 11659 *et seq.*

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(2.) No person shall buy or otherwise obtain and no person shall sell or otherwise dispose of any peanuts for planting in Queensland unless such peanuts have been certified by the Board to be apparently free from disease.

Powers of Minister as to introduced seed or seedlings.

(3.) No person shall introduce peanuts for planting into Queensland from another State or country unless they be accompanied by a certificate issued by the Department of Agriculture of that State or country certifying that such peanuts were derived from a crop which was free from disease :

Moreover, the Minister may direct the person so introducing such peanuts to subject same to such treatment and quarantine as he shall think fit and may, in any event, prohibit same from being planted except in such quarantine area as he shall specify.

Powers of inspector.

(4.) Where there are in or upon any place peanuts which—

- (i.) An inspector reasonably suspects to be for planting or to be for sale or disposal otherwise than for planting ; or
- (ii.) Have been planted,

such inspector may call upon the occupier or, if there is no occupier, the owner of such place to satisfy him beyond reasonable doubt that the Board has issued a certificate of apparent freedom from disease for all such peanuts.

Any occupier or owner so called upon as aforesaid who fails to produce to such inspector the certificate of apparent freedom from disease issued by the Board in respect of such peanuts and/or to satisfy such inspector that such certificate relates to all of such peanuts shall be guilty of an offence and liable to a penalty of not more than one hundred pounds.

(5.) The averment in any complaint for an offence against this section that any peanuts are for planting or, as the case may be, have been planted shall, unless the defendant satisfies the court beyond reasonable doubt to the contrary, be conclusive evidence of the fact so averred.

When peanuts are deemed to be diseased.

(6.) Any peanuts in respect of which there has been a contravention of this section and the plants or crop of any such peanuts which have been planted shall, and whether any person has been convicted of such offence

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or not, be and be deemed to be diseased under and within the meaning of this Act, and all of the provisions of this Act relating to diseased peanuts and peanut plants and the produce thereof shall extend and apply accordingly.

28. The production of any order, direction, or notification purporting to be signed by the Minister, or by the Under Secretary, or by the chairman or secretary of the Board, or by any person authorised by the Minister or by the Board or by any inspector, or of any certified copy thereof, shall in the absence of proof to the contrary be sufficient evidence of the due making of such order, direction, or notification, and that it was duly signed by the person by whom it purported to be signed.

The production of a certificate purporting to be signed by any inspector or of any certified copy thereof that any costs, charges, or expenses of an amount stated have been incurred by such inspector upon or with respect to any land or place under or for the purposes of this Act shall be *prima facie* evidence that costs, charges, or expenses were duly incurred and that the amount thereof so stated is the correct amount.

29. (1.) No inspector, and no person acting under the direction or order of an inspector, or the Minister, or the Board, shall be deemed to be a trespasser by reason of any entry or destruction under this Act.

(2.) Except as otherwise provided, no person shall be entitled to receive any compensation whatsoever in consequence of any measures lawfully taken for the eradication of any disease, or the destruction of any insect or fungus, or of any peanuts, or peanut plants, or any produce thereof, or of any package or other material the destruction of which may be ordered under this Act, or of any prohibited or diseased peanuts, or peanut plants, or any produce thereof, or in respect of any loss or injury that may result to him therefrom, either directly or indirectly.

30. (1.) Every person shall be guilty of an offence against this Act who—

(a) In any manner obstructs or impedes any person in the execution of any of the powers conferred by this Act; or

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- (b) Disobeys or neglects to comply with this Act, or any order, notification, or direction given in pursuance thereof ;
- (c) Fails to comply with any term or condition of an undertaking given by him pursuant to this Act.

Penalty.

(2.) If any person is guilty of an offence against this Act for which no specific penalty is prescribed he shall be liable to a penalty not exceeding fifty pounds and, in addition liable, in the case of an individual person, to a penalty of not more than twenty pounds or, in the case of a corporate body, to a penalty of not more than fifty pounds, for each and every day during which such offence is continued after a conviction therefor.

Recovery of penalties.

31. All penalties incurred for any offence against this Act may be recovered in a summary way under **"The Justices Acts, 1886 to 1932,"* on the complaint of any person authorised by the Minister.

Proceedings for an offence against this Act may be instituted at any time within six months after the commission of the offence or within four months after the discovery thereof by the complainant, whichever is the later period.

Power of Supreme Court.

32. For the better enforcement of this Act and in addition to and notwithstanding any other provision in this Act in that behalf contained, the Supreme Court may on application of the Minister make such order as it deems just or necessary in the nature of a mandamus or injunction to compel compliance with or restrain a breach of or continuance of a breach of any of the provisions of this Act or of any lawful determination or order of the Minister, and all necessary powers and authorities and jurisdiction of the Supreme Court shall apply and extend herein and are vested in the Supreme Court accordingly.

Service of notice, &c.

33. (1.) Any notice, order, process, or other document under this Act required or authorised to be given or served to or upon any person may be given or served—

- (i.) By delivering the same to such person ; or
- (ii.) By leaving the same at his usual or last known place of abode ; or

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

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(iii.) By forwarding the same by post in a prepaid letter addressed to such person at his usual or last known place of abode.

(2.) Any such document required to be given to or served on the owner or occupier of any land or place may, if the name of the owner or occupier is not known, be addressed to him by the description of the "owner" or "occupier" of the land or place in question (naming it), without further name or description.

(3.) Any such document, if addressed to the owner or occupier of any land or place, may be given or served by delivering the same or a true copy thereof to some person upon or within the land or place, or, if there is no person who can be so served, by fixing the same on some conspicuous part of the land or place.

(4.) The court may, if satisfied that there is no occupier of such land or place and that the owner thereof is absent from Queensland or is unknown, proceed to hear and adjudicate upon any complaint in respect thereof *ex parte*, and in such case the expenses of any such proceedings ordered to be paid by the defendant shall until paid be and remain a charge on such land or place, and be payable by the owner thereof for the time being.

34. (1.) The costs, charges, and expenses incurred by or on behalf of His Majesty in and with respect to the administration of this Act shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly :

Provided that the Board shall pay out of its funds all costs, charges, and expenses incurred in and with respect to the doing and executing of its powers, authorities, functions, and jurisdiction under this Act.

(2.) In any case in which he considers it advisable so to do the Governor in Council may, by Order in Council, require and direct the Board to make a levy as specified in such Order in Council upon all growers for the purposes of this section.

Such levy shall be deemed to be a levy required and directed by the Governor in Council to be so made under **"The Primary Producers' Organisation and Marketing Acts, 1926 to 1938,"* and all of the provisions of those Acts

* 17 Geo. V. No. 20 and amending Acts, *supra*, pages 11659 *et seq.*

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respecting levies, excepting the last two paragraphs of subsection two of section twenty-nine of such Acts, shall, *mutatis mutandis*, apply and extend accordingly.

The power to make a levy under this Act shall be in addition to and not in derogation of any power conferred upon the Board to make levies under **“The Primary Producers’ Organisation and Marketing Acts, 1926 to 1938.”*

Regulations.

35. (1.) The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

Without limiting the generality of the foregoing provisions, such regulations may provide for all †of any of the following matters :—

- (i.) Securing the detention and examination of peanuts, peanut plants, and/or products thereof which are suspected to be diseased, and of packages, materials, or other things which are suspected to contain diseased peanuts, peanut plants, and/or products thereof, or to harbour or to be infested by insects or fungi ;
- (ii.) Securing the effectual treatment of diseased peanuts, peanut plants, and/or any product thereof, and the effectual destruction of insects and fungi and pests, and for the more effectual administration of this Act defining the term “proximity” included in the definition “diseased” ;
- (iii.) Securing the disinfecting of packages used for shipping or forwarding peanuts to any destination previous to the same being returned to any land or place upon or in which are any peanuts, peanut plants, and/or any product thereof ;
- (iv.) Prescribing quarantine and the nature thereof and all matters and things regarding quarantine and the administration thereof,

* 17 Geo. V. No. 20 and amending Acts, *supra*, pages 11659 *et seq.*

† *Sic* in *Gazette*; *semble* “or.”

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- including the matter of appointment of places of entry and quarantine, and generally any matter or thing necessary, expedient, or convenient to give full effect to quarantine ;
- (v.) Securing the efficient inspection of lands used for the growing of peanuts ;
 - (vi.) Defining the qualifications and duties of inspectors under this Act, and prescribing the form of authority to be used by an inspector for the purpose of identifying himself ;
 - (vii.) All matters or things, including forms of notices, orders, permits, or other forms required or permitted by this Act to be prescribed ;
 - (viii.) The issue or refusal of any certificate as may be prescribed and any fee therefor as may be prescribed ;
 - (ix.) Prescribing returns of statistics and data (whether in respect of peanuts or otherwise as may be prescribed) to be furnished to the Under Secretary or the Board, and the contents and verification thereof by any person (whether or not a grower of peanuts), and the time and mode of making and furnishing the same ;
 - (x.) The fixing of standards for different grades of peanuts of the respective varieties and the grade description or grade mark for each grade ;
 - (xi.) The class, construction, and condition of the packages in which graded peanuts shall be packed, the methods of packing graded peanuts, and the prohibition of the use of such packages for packing peanuts not graded by the Board ;
 - (xii.) The methods of grading peanuts and the conditions under which peanuts shall be graded ;
 - (xiii.) The fees for grading or other services carried out by the Board under this Act ;

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(xiv.) Imposing penalties not exceeding in any case fifty pounds for any breach of the regulations : and conferring power, authority, and jurisdiction to take proceedings under this Act, either against the occupier or owner, under such circumstances as may be prescribed ;

(xv.) All matters required or permitted by this Act to be prescribed in so far as the same are not required to be otherwise prescribed.

(2.) Regulations may be made on the passing of this Act.

May be made on passing of Act.

Proclamations, Orders in Council, and regulations to form part of this Act.

36. All Proclamations, Orders in Council, and regulations made or purporting to have been made under this Act shall be published in the *Gazette*, and thereupon shall be of the same effect as if they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

Any such Proclamation, Order in Council, or regulation may be repealed or modified by a subsequent Proclamation, Order in Council, or, as the case requires, regulation, under this Act.

All such Proclamations, Orders in Council, and regulations shall be laid before Parliament within fourteen days after such publication if Parliament is in session ; and if not, then within fourteen days after the commencement of the next session.

If Parliament passes a resolution disallowing any such Proclamation, Order in Council, or regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such Proclamation, Order in Council, or regulation has been laid before it, such Proclamation, Order in Council, or regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the power to make any further or other Proclamation, Order in Council, or regulation.

For the purposes of this section "sitting days" means days upon which Parliament actually sits for the despatch of business.