



ANNO QUINTO

**GEORGI VI REGIS.**

A.D. 1941.

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**No. 41 of 1941.**

An Act relating to the marketing of eggs.

[Assented to 20th November, 1941.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**Short title.** 1. This Act may be cited as the "Marketing of Eggs Act, 1941".

**Interpretation.** 2. (1) In this Act, unless the context otherwise requires or some other meaning is clearly intended—

"the board" means The South Australian Egg Board constituted under this Act;

"eggs" means eggs of fowls, and the yolks and whites of such eggs, in any of the following forms namely:—  
eggs in shell, liquid whole eggs, liquid whites of eggs, liquid yolks of eggs, dried whole eggs and dried separated whites and yolks of eggs;

"licensed collector" means person licensed under this Act as a collector of eggs;

"member" includes chairman;

"Minister" means Minister of the Crown for the time being holding the office of Minister of Agriculture, or any Minister of the Crown for the time being discharging the duties of that office;

"producer" means person who keeps twenty or more adult female fowls. For the purpose of this definition a fowl shall be regarded as an adult if it has commenced laying eggs;

“registered agent” means agent of the board for the time being registered under this Act;

“sell” includes barter; and “sale” has a corresponding meaning.

(2) For the purposes of this Act, all fowls on any premises shall, unless the board in writing otherwise directs, be conclusively presumed to be kept by the occupier of those premises.

3. This Act shall be construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act would but for this section be 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.

Construction of Act.

*The South Australian Egg Board.*

4. (1) For the purposes of this Act there shall be a board to be known as “The South Australian Egg Board”.

Constitution of board.

(2) The board shall consist of six members appointed by the Governor.

(3) The members of the board shall be—

(a) three persons engaged in keeping fowls for the production of eggs for sale, at least one of such persons being so engaged at premises more than twenty miles from the General Post Office at Adelaide;

(b) two persons who, in the Governor’s opinion, have knowledge of and have had experience in trade in eggs; one of the said persons shall be a person who, in the Governor’s opinion, is suitable to represent the interests of retailers of eggs;

(c) one other competent person not engaged in the business of producing or selling eggs, who shall be chairman.

5. The board shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of suing and being sued and of acquiring, holding and disposing of property of all kinds.

Incorporation of board.

6. The board shall not, except in relation to any matter in which the board is specially authorized by the Governor to act on behalf of the Crown, be the agent or servant or the representative of the Crown.

Board not to represent Crown.

7. Subject to this Act, the first members of the board shall hold office for three years calculated as from the first day of April next after their appointment, and every subsequent

Term of office.

member shall hold office for three years calculated as from the first day of April in the year in which he is appointed: Provided that—

- (a) a member appointed to fill a casual vacancy on the board shall hold office for the balance only of the term of the member in whose place he was appointed;
- (b) a retiring member shall be eligible for re-appointment.

Casual vacancies.

8. The office of a member shall become vacant if he—

- (a) dies;
- (b) resigns by written notice given to the Minister;
- (c) is removed from his office by the Governor for misbehaviour or mental or physical incapacity to perform his duties as a member;
- (d) absents himself, without permission of the board, from more than four consecutive meetings of the board, and is declared by resolution of the board to have forfeited his seat.

Proceedings of board not invalidated by vacancies and defects.

9. (1) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of members of the board not being complete at the time of such act or proceeding.

(2) All acts and proceedings of the board shall, notwithstanding the subsequent discovery of any defect in the appointment or qualification of any member thereof, be as valid as if such member had been properly appointed and qualified.

Chairman.

10. (1) The chairman shall preside at every meeting of the board at which he is present. If the chairman is absent from a meeting the other members of the board present shall select one of their number to act as chairman at that meeting.

(2) The chairman, or the person acting as chairman, shall have a deliberative vote and in the event of equality of votes a casting vote also.

Quorum.

11. (1) Any four members of the board shall form a quorum thereof for the transaction of business, and no business shall be transacted at a meeting unless a quorum is present.

(2) Every matter coming before the board shall be decided by a majority of the votes of the members present and voting at a duly convened meeting of the board.

**12.** (1) The first meeting of the board shall be convened by the chairman, and thereafter meetings shall be held at the times and places determined by the board: Provided that the chairman may, on reasonable notice to members of the board, call a meeting at any time.

Meetings of the board.

(2) Subject to this Act, the business of the board shall be conducted in such manner as the board determines.

**13.** (1) The members of the board shall be entitled to be paid such remuneration and expenses as are approved by the Governor.

Remuneration of board.

(2) Such remuneration and expenses shall be paid out of the funds of the board.

**14.** (1) The board may appoint a secretary and such inspectors, clerks and other officers and employees as it requires to assist it in the administration of this Act.

Staff of board.

(2) With the consent of the Minister administering any Department of the Public Service of the State, the board may, on any terms agreed between itself and the Minister, make use of the services of any person employed in that Department.

**15.** (1) The board shall keep full accounts of all money received and paid by it and of the purposes for which the money was so received or paid.

Accounts and audit.

(2) The Auditor-General shall in each financial year audit the accounts of the board for the preceding financial year and every member and officer of the board shall give the Auditor-General and his officers all the information relating to such accounts which he or they require and shall upon request produce to the Auditor-General and his officers any books, vouchers, or other documents relating to such accounts and do all things necessary to enable the audit to be made.

(3) The board shall pay to the Treasurer of the State such reasonable sum for the audit as the Treasurer fixes.

**16.** The Auditor-General shall within three months after the end of each financial year report to the Minister on the questions—

Report on prices and costs.

(a) whether the prices at which during that year eggs were bought and sold by the board, and sold by retailers to the public were reasonable;

(b) whether the board has been economical in its expenditure on the administration of this Act, and on the collection, transport, grading, treatment and marketing of eggs.

Every such report shall as soon as is convenient after the making thereof, be laid before both Houses of Parliament.

General powers  
of board.

17. The board may for the purposes of carrying out the duties and functions imposed on it by the other provisions of this Act—

- (a) buy or sell any property ;
- (b) enter into any contract ;
- (c) borrow money and mortgage or charge any of its property as security for the repayment of any money borrowed ;
- (d) delegate any of its functions and revoke any such delegation.

Board may  
establish egg  
floors.

18. The board shall not establish or maintain any egg floor : Provided that if the Minister is satisfied that an egg floor is necessary in any locality and that no other suitable person is willing to establish such a floor and grade eggs thereat at a cost which the Minister considers reasonable, the Minister may authorize the board to establish and maintain an egg floor in that locality, and the board may establish and maintain an egg floor accordingly.

*Registered Agents and Licensed Collectors.*

Registered  
agents of board.

19. (1) For the purposes of this Act the board may register suitable persons as its agents.

(2) Any person desiring registration as an agent of the board shall apply in writing to the board for such registration, and give the board such information relevant to his application as the board requires.

(3) Any person who holds a licence to export eggs under the laws of the Commonwealth shall be entitled to be registered as an agent of the board and to remain so registered as long as he holds such a licence and complies with this Act and the regulations.

(4) The board shall have a discretion to grant or refuse registration to any applicant therefor other than an applicant holding a licence to export eggs under the laws of the Commonwealth.

(5) The registration of an agent shall remain in force until it is cancelled, or the agent surrenders it, or dies.

(6) The board may cancel the registration of any agent if he ceases to hold a licence to export eggs under the laws of the Commonwealth, or if he has failed in any way to comply with this Act or the regulations or to carry out any of his duties as

an agent of the board, or if he becomes bankrupt, or in any way, as a debtor, takes the benefit of the laws relating to bankruptcy.

(7) Every registered agent shall be entitled to take delivery of eggs from producers on behalf of the board, and shall perform such other duties and functions on behalf of the board as the board directs.

**20.** (1) For the purposes of this Act the board may license suitable persons to be collectors of eggs. Licensed collectors.

(2) Any person desiring a licence as a collector of eggs shall apply in writing to the board for a licence and shall give the board such information relevant to the application as the board requires.

(3) The board shall have a discretion to grant or refuse a licence to any applicant therefor, but shall not capriciously refuse any application.

(4) A licence under this section shall remain in force until it is cancelled, or the licensed collector surrenders it, or dies.

(5) The board may cancel the licence of any licensed collector who has failed in any way to comply with this Act or the regulations, or to carry out any of his duties as an agent of the board, or who has become bankrupt or in any way, as a debtor, has taken the benefit of the laws relating to bankruptcy.

(6) Any licence granted under this section may contain terms and conditions as to—

(a) the area within which the licensed collector named therein may collect eggs;

(b) the registered agents of the board to whom the licensed collector named therein must deliver any eggs collected by him;

(c) the rights, duties and liabilities of the said licensed collector in relation to the collection, transport and disposal of eggs.

(7) A licensed collector who contravenes or fails to observe any term or condition of his licence shall be guilty of an offence.

(8) A licensed collector shall be the agent of the board for the purpose of collecting eggs from producers and transporting and delivering them to registered agents of the board.

(9) A licensed collector shall be entitled to be paid by the board such sum for his services in and about the collection, transport and delivery of eggs as the board fixes.

(10) Subject to any directions given by the board and to the terms of his licence a licensed collector may deliver any eggs collected by him to such registered agents of the board as he thinks proper.

*Control and Marketing of Eggs.*

Duty to sell and deliver eggs to the board.

**21.** (1) The board may by notice published in the *Gazette* and in a daily newspaper fix a day (in this section called "the appointed day") on and after which every producer must comply with the requirements of this Act as to the sale and delivery of eggs.

(2) On or after the appointed day a producer shall not sell or deliver any eggs to any person other than the board and a person other than the board shall not purchase or take delivery of any eggs from a producer: Provided that the foregoing provision of this subsection shall not apply to—

(a) any eggs sold or delivered as allowed under section 23;

(b) any eggs sold or delivered in the course of trade or commerce between the States.

(3) The board shall accept delivery of all eggs tendered to it pursuant to this Act if such eggs are of merchantable quality and comply with any requirements prescribed by regulation.

Effect of delivery of eggs to board.

**22.** All eggs delivered to the board by producers and accepted by the board shall thereupon be vested in and become the absolute property of the board freed and discharged from all mortgages, charges, liens, pledges, interests, trusts, contracts, and encumbrances affecting them; and the rights and interests of every person to or in the eggs shall thereupon be converted into a claim for payment therefor in accordance with the provisions of this Act.

Exemptions.

**23.** (1) The board may by notice published in the *Gazette*, or by written notice given to the producers thereby affected exempt from the operation of the last two preceding sections—

(a) any producers of small quantities of eggs;

(b) any specified sales or deliveries of eggs or all sales and deliveries complying with any specified conditions.

(2) The board may by notice published or given as mentioned in subsection (1) of this section at any time revoke or vary any exemption for the time being in force under that subsection.

(3) This Act shall not apply to any eggs given *bona fide* by the producer thereof to any person in reasonable quantities, provided that such eggs are not for re-sale.

(4) This Act shall not apply in relation to any eggs if the proceeds of the sale thereof are expended or applied for any of the following purposes—

- (a) for the benefit of any hospital, or institution in which sick, aged or infirm persons are maintained, or any other charitable institution ;
- (b) for the benefit of any school or institute ;
- (c) for paying the cost of building any church or any hall available or intended to be available for general public use, or for repaying any loan raised to pay such cost ;
- (d) for beautifying or improving any streets, roads, public parks, public playgrounds, public reserves, or other like public places ;
- (e) for any charitable purpose ; or
- (f) any other patriotic, religious, educational or scientific purpose.

(5) This Act shall not apply to eggs sold as eggs for hatching.

**24.** (1) Delivery of eggs to the board shall be effected by delivering the eggs to a registered agent of the board or to a licensed collector.

Mode of delivery to board.

(2) The tendering of eggs by a producer or person on his behalf, to a registered agent of the board or to a licensed collector for acceptance shall be *prima facie* evidence of an intention to deliver the eggs to the board to be disposed of by the board in accordance with this Act.

**25.** A producer may prior to or at the time of delivering eggs to the board notify the board that the eggs are delivered on behalf of some other person and that the certificate for the eggs is to be issued to that person.

Issue of certificate to person other than producer.

**26.** (1) As soon as practicable after the receipt of any eggs the board shall issue to the person entitled thereto a certificate in the prescribed form certifying that the eggs have been delivered and that payment therefor is to be made to such person or his assignee.

Certificate to produce upon delivery.



(2) The person entitled to a certificate under this section shall be—

(a) the producer by whom the eggs were delivered ; or

(b) if the producer has notified the board that the certificate is to be issued to any other person, that other person.

(3) A person to whom a certificate has been issued, or to whom the rights under a certificate have been assigned, may assign his rights under the certificate by indorsement thereon specifying the name of the assignee.

Sale of eggs by board.

**27.** (1) The board shall sell all eggs of which it becomes the owner under this Act to such persons and at such prices and on such terms as it deems proper.

(2) The board may, before selling any eggs, arrange for them to be pulped, dried, or otherwise processed on behalf of the board.

(3) In selling such eggs the board shall pay due regard to the reasonable trade requirements of the merchants and associations who in the course of their business sell eggs by wholesale or retail.

Grading.

**28.** (1) The board shall, unless in any case it is inconvenient or impracticable to do so, grade or cause to be graded all eggs delivered to it. The grades of eggs and the characteristics of the eggs of each grade shall be as prescribed by regulation.

(2) The price paid by the board to producers for eggs which have been graded, shall vary according to the grade of the eggs.

Advances to producers on account of price.

**29.** Upon acceptance of any eggs the board shall make an advance to the person holding the certificate issued for those eggs of such amount on account of the price of the eggs as the board thinks fit.

Settlements with producers

**30.** (1) The board shall determine what shall be the accounting periods for the purpose of determining and paying the amounts owing to producers and others for eggs delivered to the board.

(2) The board shall, at or after the end of each accounting period, make payments to all holders of certificates for eggs delivered to the board during that period. The payments so to be made shall be based upon—

- (a) the quantity and, in the case of eggs which have been graded, the grades of the eggs so delivered ;
- (b) the net proceeds of the sales of all eggs of the corresponding grades sold by the board during the accounting period ;
- (c) the amount of the advances made to the holders of the certificates ;
- (d) any other circumstances affecting the amount of the payments.

(3) The board may deduct from the proceeds of the sale of any eggs, and retain, a sum equal to the amount of money spent by the board in and about the transport, storage, grading, drying, pulping, packing and marketing of the eggs, and a contribution towards the cost of the administration of this Act and any money necessary to repay any advance made to the board and interest on such advance.

(4) For the purposes of this Act the decision of the board as to—

- (a) the grade of any eggs delivered to the board ;
- (b) the amounts to be deducted under this section,

shall be final and conclusive.

**31.** Where the board in good faith and without negligence has made any payment to the person appearing from any certificate to be entitled to such payment, the board shall not be liable to make any payment to any other person for the eggs mentioned in the certificate.

Non-liability of board for payments in good faith.

#### *Miscellaneous provisions.*

**32.** (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

Offences and penalties.

(2) Any person guilty of any offence against this Act shall be liable to a fine not exceeding one hundred pounds.

(3) Proceedings for offences against this Act shall be heard and determined summarily.

**33.** Except where this Act otherwise provides, any notice required by this Act to be given to any person, may be served personally or by post.

Service of notices.

## Regulations.

**34.** The Governor may make regulations 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, but without limiting the generality of the foregoing powers—

- (a) for requiring any persons to furnish the board with any information relating to eggs ;
- (b) for enabling the board or any person authorized by it to inspect any records or accounts relating to eggs or any premises on which eggs are produced, stored, graded, packed, dried, pulped, or otherwise treated ;
- (c) for prescribing the duties, functions, and conduct of registered agents and licensed collectors ;
- (d) for prescribing penalties not exceeding in any case a fine of twenty pounds recoverable summarily for breach of the regulations.

## Period of operation of Act.

**35.** This Act shall remain in operation until the expiration of six months after the Governor-General of the Commonwealth issues a proclamation declaring that the war with Germany existing at the time of the passing of this Act has ceased.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.