



ANNO VICESIMO QUINTO

GEORGII V REGIS.

A.D. 1934.

No. 2181.

An Act to regulate the marketing of dried fruits, and
for other purposes.

[*Assented to, November 29th, 1934.*]

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

PART I.

PART I.

PRELIMINARY MATTERS.

1. This Act may be cited as the "Dried Fruits Act, 1934". Short title.
2. This Act is divided into Parts as follows :— Division of Act.
 - PART I.—Preliminary Matters : sections 1 to 5.
 - PART II.—The Dried Fruits Board : sections 6 to 21.
 - PART III.—Registration of Producers, Dealers, and Packing Houses : sections 22 to 25.
 - PART IV.—Marketing of Dried Fruits in South Australia : section 26.
 - PART V.—Acquisition of Dried Fruits : sections 27, 28.
 - PART VI.—Miscellaneous : sections 29 to 39.
3. The following Acts are repealed :—Dried Fruits Act, Repeal.
1924 (No. 1657 of 1924), Dried Fruits-Act Amendment Act,
1925 (No. 1702 of 1925), Dried Fruits Acts (Continuance) Act,

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1927 (No. 1784 of 1927), Dried Fruits Act Amendment Act, 1927 (No. 1835 of 1927), Dried Fruits Act, 1929 (No. 1915 of 1929).

Savings.

4. All appointments made, registrations effected, determinations made, directions and notices given, and all other acts, matters, or things done or pending under the Acts repealed by this Act and in force or not completed immediately prior to the commencement of this Act shall continue in force or be completed under this Act, and shall be of the same effect and validity as if this Act had been in force when they were made, effected, given, or done, and they had been made, effected, given, or done under this Act.

Interpretation.

5. (1) In this Act, unless inconsistent with the context or subject matter—

“board” means the Dried Fruits Board constituted under the Acts repealed by this Act, and continued in existence under this Act:

“dealer” means—

- (a) any person who buys any dried fruits from a producer not registered as a dealer;
- (b) any person who sells any dried fruits on behalf of a producer; and
- (c) any producer who sells any dried fruits to any person other than a registered dealer:

“dried fruits” means—

- (a) dried grapes, including dried currants, dried sultanas, lexias, dried muscatels, dried Waltham Cross, and dried doradillos;
- (b) dried tree fruits, including dried prunes, dried peaches, dried apricots, dried nectarines, and dried pears; and
- (c) such other dried fruits as are declared by proclamation to be dried fruits for the purposes of this Act:

“export parity price” of any dried fruits means the selling price in London at the time when the dried fruits are sold of the like Australian dried fruits, less cost of freight, insurance, exchange, duties, and all other charges:

“producer” means any person who produces any dried fruits for sale or barter. A person shall be deemed to produce dried fruits if he dries any fruit whether grown by himself or some other person:

“package” includes every sack, bag, barrel, case, box, carton, or other container:

“packer” means the person on whose application the board registered the packing house in which any dried fruits are stemmed, processed, graded, sorted, or packed:

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“ packing house ” means any premises or place in which dried fruits are stemmed, processed, graded, sorted, or packed for the purposes of sale, or trade, or otherwise, whether those premises are or that place is used for any other purpose or not :

“ public notice ” means notice published in the *Government Gazette*, and in at least one daily newspaper published in Adelaide.

(2) 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 if any provision of this Act would but for this section be in excess of that power, that provision shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

PART II.**PART II.****DRIED FRUITS BOARD.**

6. There shall be a board to be called the “ Dried Fruits Board ”.

Dried Fruits Board.

7. (1) The board shall consist of five members, who shall be appointed by the Governor. Three of such members shall be representatives of the producers, and two shall be official members.

Constitution of board.

(2) The Governor may appoint one of the official members to be chairman of the board. The other official member shall be deputy chairman of the board.

(3) Notice of every appointment of a member of the board, or of a member to be chairman of the board, shall be published in the *Government Gazette*.

8. The official members shall be permanent members of the board, but the representative members shall not hold office for a longer period than two years without re-appointment.

Terms of office of members

9. (1) Subject to this Act, the representative members who are members of the board at the time of this Act coming into operation shall continue in office until the thirty-first day of December, nineteen hundred and thirty-five, but shall be eligible for re-appointment.

Representative members.

(2) After the thirty-first day of December, nineteen hundred and thirty-five, the persons appointed to be representative members of the board shall be those elected by the producers as provided in this Act.

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Districts for election of representative members.

10. (1) For the purposes of elections of representative members of the board the State shall be divided into two districts, which shall be called No. 1 District and No. 2 District.

(2) No. 1 District shall comprise all land within a distance of fifteen miles from either side of the River Murray in South Australia between Murray Bridge and the border between South Australia and New South Wales.

(3) No. 2 District shall comprise all the rest of South Australia.

Number of members to be elected.

11. (1) The producers whose blocks or premises are within District No. 1 shall elect two members.

(2) The producers whose blocks or premises are within District No. 2 shall elect one member.

(3) The elections shall take place in manner prescribed.

Voting by producers.

12. Every producer of dried fruits who is for the time being registered with the board shall, at every election for his district, be entitled to one vote for each candidate required to be elected.

Quorum.

13. Any three members of the board shall form a quorum thereof.

Chairmanship and decisions of board.

14. (1) At all meetings of the board the chairman, if present, shall preside; and in his absence the deputy chairman shall preside. The chairman or deputy chairman presiding shall have a casting as well as a deliberative vote.

(2) Whenever the members are not unanimous as to any matter, that matter shall be decided by the majority of votes, and the decision so arrived at shall be the decision of the board.

Acts of board not invalidated by vacancy.

15. 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.

Deputy member.

16. In case of illness or other incapacity, or absence from the State, of any member of the board, or of a vacancy in the office of any member the Governor may appoint some person to be a deputy member of the board during such illness, incapacity, or absence, or until such vacancy is filled.

Secretary, inspectors, and other officers.

17. (1) The board may appoint a secretary, and any inspectors or other officers whom it considers necessary to enable it to carry out its duties and functions.

(2) The board may authorise any persons to do such acts and things not inconsistent with this Act as it considers necessary for carrying out this Act.

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(3) Any person who in any way resists, interferes with, hinders, or obstructs any person in the exercise or discharge of any power or duty under this Act shall be liable to a fine not exceeding one hundred pounds or to be imprisoned for any term not exceeding six months.

18. (1) The board may in any year for the purpose of defraying the expenses of administering this Act and of carrying out its duties and functions under this Act impose a levy in respect of all the dried fruits produced or to be produced in South Australia in that year. Levy in respect of dried fruits.

(2) The levy shall not exceed one-sixteenth of a penny per pound of the dried fruits in respect of which it is made.

(3) Every levy shall be made in manner prescribed by regulations, and shall be paid at the times and in the instalments fixed by the board.

(4) The levy on any dried fruits shall be payable by the packer thereof, unless the board in its discretion elects to collect the levy or any part thereof from any dealer dealing in the dried fruits or from the producer thereof, in which case the levy or part thereof shall be payable by the dealer or producer accordingly.

(5) The amount payable by any person in respect of the levy shall become due forthwith upon receipt of a notice from the board intimating to that person the amount due by him; and if that amount remains unpaid for one month after it becomes due, it shall be recoverable by the Board by any of the remedies available to the Commissioner of Taxes for the recovery of income tax in arrear.

19. The board may from time to time—

General powers of the board.

- (a) make and carry out contracts with any person in respect to the purchase or sale of dried fruits produced in Australia :
- (b) make and carry out contracts or arrangements 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, or in taking or defending legal proceedings, and for purposes incidental thereto :
- (c) open shops or depots for the sale of dried fruits, either wholesale or by retail :

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- (d) provide depots for the storage or distribution of dried fruits :
- (e) fix the remuneration to be paid to dealers for the sale or distribution of dried fruits :
- (f) by means of advertising or any other appropriate means, encourage the consumption of dried fruits, and create a greater demand therefor :
- (g) regulate by any such means as are prescribed the removal of dried fruits from packing houses.

Power of board to require returns.

20. (1) The board may by notice in writing require—

- (a) any producer, or any person registered as a producer, to furnish to the board in writing any particulars with respect to any dried fruits produced by him :
- (b) any dealer, or any person registered as a dealer, to furnish to the board in writing any particulars with respect to any dried fruits in his possession or sold or likely to be sold by him (whether on his own behalf or as agent for some other person):
- (c) the owner, occupier, or person in charge of any packing house to furnish to the board in writing any particulars with respect to the dried fruits which are or have been or are likely to be in the packing house for the purpose of being stemmed, processed, graded, sorted, or packed.

(2) Every such notice shall specify the time within which the particulars are to be furnished to the board.

(3) Any person who fails to furnish particulars in relation to any matter within his knowledge or under his control, in accordance with a notice under this section within the time therein specified, or who furnishes any untrue particulars in relation to any such matter shall be guilty of an offence and liable to a fine not exceeding five hundred pounds.

Power of board to give directions.

21. (1) The board may by notice in writing give to any dealer or person registered as a dealer or to the owner, occupier, or person in charge of any packing house any direction which the board thinks proper to secure the observance of any determination for the time being in force or any other direction or policy of the board.

(2) Any person who fails to comply with any direction given by the board under this section shall be guilty of an offence.

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PART III.

PART III.

REGISTRATION OF PRODUCERS, DEALERS, AND
PACKING HOUSES.

22. (1) No person shall carry on business as a producer of dried fruit unless he is registered by the board as a producer. Registration of producers.

(2) Registration as a producer may be obtained on application to the board. The application shall contain the following particulars, verified by a statutory declaration, namely:—

- (a) the applicant's full name and address :
- (b) the situation of the land on which he carries on business, and a description of it sufficient to enable it to be identified :
- (c) the estimated quantity of dried fruits he expects to produce in the next ensuing year :
- (d) any other particulars prescribed.

23. (1) No person shall carry on business as a dealer in dried fruits unless he is registered with the board as a dealer. Registration of dealers.

(2) Application for registration or renewal of registration as a dealer shall be made to the board, and shall be accompanied by the following particulars, verified by statutory declaration:—

- (a) the applicant's full name and address, and if he carries on business under a registered firm name, that firm name :
- (b) the place where he carries on business :
- (c) any other particulars prescribed.

(3) The registration of a dealer shall expire on the thirty-first day of December next after it takes effect, but shall, upon application duly made, be renewed.

(4) The board may in its discretion grant or refuse any application for registration as a dealer.

(5) The board may in its discretion cancel the registration, whether original or renewed, of any dealer if that dealer is in the opinion of the board acting in such a manner as to defeat or delay or embarrass the board in carrying out any policy of the board, or if in the opinion of the board he has refused or neglected to carry out any direction or determination of the board.

24. (1) No person shall use or occupy any premises or other place whatsoever for the purpose of stemming, processing, grading, sorting, or packing any dried fruits for trade or sale or otherwise, unless those premises are, or that place is for the time being registered under this Act as a packing house. Registration of packing houses.

Penalty—Not exceeding one hundred pounds, with an additional two pounds for every day on which the premises are or place is used or occupied in contravention of this section.

(2) Application for registration or renewal of registration shall be made in such form as is prescribed, and the person making application shall furnish such particulars as are prescribed, or as the board requires.

(3) The board may in its discretion grant or refuse any application for registration.

(4) The board may refuse any application for renewal of registration of any packing house which since the registration thereof has become insanitary or otherwise unfit for use as a packing house: Provided that no such application for renewal shall be refused unless notice is given to the applicant to make the packing house sanitary or fit for use as a packing house, as the case may be, and unless the applicant within the time specified in the notice fails or neglects to make the packing house sanitary or fit for use as a packing house, as the case may be, by complying with the requirements specified in the notice.

(5) The registration of a packing house shall expire on the thirty-first day of December next after it takes effect, but may be renewed in such manner and upon such conditions as are prescribed.

(6) When a packing house has been registered, the registration thereof may at any time during the currency of the registration, upon application in the prescribed form, be transferred in favour of any other person who is capable of carrying on the business of such packing house and willing and able to comply with this Act.

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

(a) For registration or for renewal of registration, one pound:

(b) For transfer of registration, five shillings.

Cancellation of registration.

25. (1) The board may, in its discretion, cancel the registration, whether original or renewed, of a packing house if the person using or occupying it is in the opinion of the board deliberately contravening any determination of the board with respect to any dried fruits in such packing house, or if, in the opinion of the board, he persistently refuses to collaborate with the board in regard to carrying out any direction or policy of the board in pursuance of the objects of this Act.

(2) The board may grant or renew registration of any packing house on condition that no fruits other than those specified by the board in a certificate of registration are handled therein, and upon breach of any such condition the registration shall become void.

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PART IV.

PART IV.

MARKETING OF DRIED FRUITS IN SOUTH AUSTRALIA.

26. (1) The board may from time to time determine the maximum proportion of the dried fruits produced in South Australia in any year which may be marketed within South Australia.

Home quota
for sale of
dried fruits.

(2) The board shall give public notice of every such determination, and shall send by post to every registered dealer a notice containing particulars of such determination.

(3) Any dealer who in the course of intrastate trade or commerce sells in South Australia a greater proportion of the dried fruits of any year coming into his possession than the proportion fixed by any determination of the board relating to those fruits shall be guilty of an offence.

PART V.

PART V.

PURCHASE OR COMPULSORY ACQUISITION OF DRIED FRUITS.

27. (1) The Minister may on behalf of His Majesty purchase or acquire compulsorily any dried fruits in South Australia.

Purchase or
compulsory
acquisition
of dried fruits.

(2) The Minister may sell in such manner as he thinks fit any dried fruits acquired pursuant to this Act.

(3) The Minister may, for the purpose of obtaining money to carry out any acquisition authorised by this section, enter into any agreement with any person or with any bank carrying on business in South Australia.

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

Provisions as
to compulsory
acquisition of
dried fruits.

(1) The Minister by order in writing under his hand, may declare that any dried fruits described or referred to in the order 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.

(2) The order may be served upon the owner or any person having the control or disposal of the dried fruits described or referred to in the order.

(3) Upon service of the order—

- (a) all dried fruits described or referred to in the order shall cease to be the property of the then owner thereof, and shall become the absolute property of His Majesty, freed from any mortgage, charge, lien, or other encumbrance thereon whatsoever ;
- (b) the then owner and all agents, managers, attorneys, servants, and workmen of that owner shall, without delay, hindrance, obstruction, claim, demand, or objection whatsoever, give immediate and peaceable possession of the dried fruits to His Majesty ;
- (c) all the title and property of the then owner shall be changed into a right to receive payment of the value of the dried fruits at export parity price to be paid at such times and in such instalments as the board by notice published in the *Government Gazette* declares ;
- (d) if at the time of acquisition any person holds any mortgage, charge, lien, or other encumbrance over any of the dried fruits, he 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 the dried fruits shall be paid to the owner.

(4) 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 have been sent by the Minister, shall be sufficient authority for the delivery of possession of any dried fruits described or referred to, or claimed to be described or referred to, in such order or telegram.

(5) Any officer authorised either generally or in any particular case, in writing by the Minister in that behalf may without any warrant other than this Act, seize and take possession of all dried fruits described or referred to, or claimed to be described or referred to, in any such order or demand, and 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.

(6) Any person who refuses to deliver, or delays or obstructs or hinders the delivery of, any dried fruits described or referred to, or claimed to be described or referred to, in any such order or demand shall be guilty of an offence and liable to a fine of not more than one hundred pounds ; and if such person is

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a company the individual person guilty of the offence, and also the managing director or other manager in South Australia of the company, shall each be liable to the like penalty.

(7) If any doubt or dispute arises as to the person legally entitled to receive any moneys payable under this section, the Minister may pay the moneys into the Supreme Court to abide the order of that Court.

(8) The receipt given by any person to the Minister for any moneys paid for any dried fruits acquired under this section shall be a sufficient discharge to the Minister in respect of the liability to pay therefor; but nothing in this section shall prejudice or affect the right of any person claiming to be entitled to receive any such moneys to recover them from any person to whom the Minister has paid them.

PART VI.

PART VI.

Miscellaneous.

29. (1) The board shall pay to the Treasurer—

- (a) any legal costs and other expenses incurred by the Minister in connection with any matter arising under this Act and paid out of the general revenue of the State; and
- (b) a reasonable remuneration for all legal and other work done for or on behalf of the Board by any duly qualified legal practitioner or other officer in the employment of the Crown.

Board to repay Minister legal costs incurred by him in administering Act.

(2) The said costs, expenses, and remuneration shall until payment be a first charge on the revenue of the board.

(3) The certificate of the Under Treasurer that a specified amount is due to the Treasurer from the board under this section shall be *prima facie* evidence that that amount is due.

30. If any member of the board becomes personally liable to pay any sum of money in consequence of anything done by him or by the board in good faith in the administration or intended administration of this Act he shall be entitled to be paid that sum from the funds of the board.

Indemnity to members of board.

31. (1) Any person 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 by regulation to be used for dried fruits of the quality packed in the particular package;

Penalty for possession of dried fruits under standard or misrepresenting standard of dried fruits.

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- (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 by regulation 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,

shall be guilty of an offence.

(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) 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.

Packages
containing
dried fruits
to be branded.

32. (1) Every person who packs any dried fruits shall, in manner prescribed, legibly and durably brand, stamp, or mark upon, or cause to be branded, stamped, or marked upon, every package containing any of such dried fruits—

- (a) the name of the packer of such dried fruits :
- (b) the registered brand or registered mark of such packer :
- (c) a mark, consisting of one or more words, letters, or figures, or a combination of them, for the purpose of indicating the quality of the dried fruits contained in such package ; and
- (d) the net weight of the dried fruits contained in such package.

(2) Every person who fails to observe any of the provisions of this section shall be liable to a fine not exceeding fifty pounds.

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33. (1) The Governor may make regulations for or with respect to— Regulations

- (a) 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 inspection, management and regulation of packing houses, drying grounds, stores, and the machinery appliances, implements, and utensils, used in connection therewith, and the registration, regulation, and inspection of dehydrators ;
- (d) the branding, marking, or labelling of packages containing dried fruits ;
- (e) the registration and renewal of registration of producers and dealers, and the forms to be used in connection therewith ;
- (f) the registration and the renewal and transfer of registration of packing houses ;
- (g) the particulars to be furnished to the board by producers, and dealers applying to be registered under this Act, in addition to the particulars required by this Act ;
- (h) the stemming, processing, grading, sorting, classification and packing of dried fruits ;
- (i) fixing standards of quality for different grades of dried fruits, and the grade description or grade mark to be respectively used for packages containing dried fruits of different grades ;
- (j) regulating the removal of dried fruits from packing houses ;
- (k) any matters required or permitted by this Act to be prescribed ;
- (l) forms which may be used under this Act, and the particulars which may be required of producers, dealers, and the owners, occupiers, or persons in charge of registered packing houses ; and
- (m) requiring the information in any application return or other document to be verified by statutory declaration.
- (n) generally all matters and things necessary or convenient to be prescribed for carrying this Act into effect.

(2) Any such regulations may prescribe penalties of not more than one hundred pounds for any contravention thereof or failure to comply therewith.

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Offences and penalties.

34. (1) Every person who does not do anything directed to be done or does anything forbidden to be done by or under this Act shall be guilty of an offence.

(2) The penalty for any offence for which no penalty is elsewhere expressly provided for in this Act shall be a fine not exceeding five hundred pounds.

Summary proceedings for offences:

35. All proceedings for offences against this Act shall be disposed of summarily. Such proceedings may, notwithstanding any other Act to the contrary, be commenced at any time within twelve months from the time of the commission of the offence.

Notices.

36. Any notice required or authorised by this Act to be given to any person may be served personally or sent by post addressed to such person at his usual or last known place of abode: Provided that a notice sent by post to the owner, occupier, or person in charge of a packing house may be addressed to such owner, occupier, or person at the packing house.

Declarations exempt from stamp duties.

37. Notwithstanding anything contained in the Stamp Duties Act, 1923, no stamp duty shall be payable upon any declaration made for the purposes of this Act.

Financial provisions.

38. All expenses incurred for the purposes of this Act shall, so far as payment of them is not otherwise provided for under this Act, be paid out of moneys provided by Parliament for the purpose and shall be refunded by the Board.

Operation of Act.

39. This Act shall remain in operation until the thirty-first day of March, nineteen hundred and forty, but nothing in this section shall be deemed to revive the operation of any Act repealed by section 3.

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

W. DUGAN, Governor.