

POTATO INDUSTRY ACT 1977

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POTATO INDUSTRY

No. 97 of 1977

AN ACT to make provision for the regulation and control of the production, marketing, and disposal of potatoes grown in this State, to establish the Potato Industry Authority of Tasmania, and incidental matters.

[30 November 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—(1) This Act may be cited as the *Potato Industry Act 1977*. Short title and commencement.

(2) The several provisions of this Act shall commence on such days as may respectively be fixed by proclamation in relation thereto.

Interpretation.

- 2—(1)** In this Act, unless the contrary intention appears—
- “ Authority ” means the Potato Industry Authority of Tasmania established under section 3;
 - “ inspector ” means an inspector appointed under section 36;
 - “ part-processing ” means peeling, chipping, dicing, or part-frying of potatoes for sale by wholesale;
 - “ processing ” in relation to potatoes means canning, freezing, or dehydrating;
 - “ quota ” means a quota fixed under Part IV;
 - “ quota holder ”, in respect of any potato season, means a registered potato grower for the time being holding a quota allocated for that season under Part IV;
 - “ quota potatoes ” means potatoes delivered to the Authority in fulfilment of a quota;
 - “ registered potato grower ” means a person who is registered as a potato grower under section 10;
 - “ registered potato part-processor ” means a person who is registered as a potato part-processor under section 10;
 - “ registered potato pre-packer ” means a person who is registered as a potato pre-packer under section 10;
 - “ registered potato wholesaler ” means a person who is registered as a potato wholesaler under section 10;
 - “ Review Committee ” means the Potato Quota Review Committee established under Part IV;
 - “ sell ” includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send, forward, or deliver for sale, cause, suffer, or allow to be sold, offered, or exposed for sale;
 - “ wash ” means clean in any manner, whether by washing, brushing, or other means.

(2) References in this Act to potatoes grown for consumption in this State shall be deemed not to include references to potatoes grown for processing or for the seed requirements of the processing industry.

(3) References in this Act to a class of potato shall be construed as including references to a grade and variety of potato, and any such grade or variety may be described by reference to the provisions of any other Act for the time being in force.

(4) References in this Act to delivery to the Authority shall be construed as including references to delivery at the direction of the Authority.

PART II

POTATO INDUSTRY AUTHORITY OF TASMANIA

3—(1) There shall be established an authority to be called the Potato Industry Authority of Tasmania. Potato Industry Authority of Tasmania which shall be a body corporate with perpetual succession and a common seal.

(2) The Authority shall consist of 7 members appointed by the Governor of whom one shall be appointed as chairman of the Authority on the nomination of the Minister.

(3) Notwithstanding anything in this section, the initial appointment upon the establishment of the Authority of members—

(a) under subsection (4) (b), shall be made by the Governor on a nomination made in accordance with Part I of Schedule I; and

(b) under subsection (4) (c), shall be made by the Governor on a nomination made in accordance with Part II of Schedule I.

(4) Of the members of the Authority other than the chairman—

(a) two shall be appointed on the nomination of the Minister, of whom—

(i) one shall be a person with experience in marketing, finance, economics, science, industrial matters, or consumer affairs; and

(ii) one shall represent processors;

(b) one shall be a registered potato wholesaler elected for appointment by registered potato wholesalers; and

(c) three shall be registered potato growers elected for appointment by registered potato growers.

(5) At least two of the persons appointed under subsection (4) (c) shall be persons who have been granted quotas at some time during the 12 months prior to the election for their appointment.

(6) The Governor may, on the nomination of the Minister, appoint a member of the Authority referred to in subsection (4) to be the deputy chairman of the Authority.

(7) Any election required to be held under this section shall be held in such manner as may be prescribed.

(8) Where an appointment pursuant to paragraph (b) or paragraph (c) of subsection (4) is required to be made and no person is elected for appointment within 60 days of the date on which an election is required by the Minister to be held for that purpose, then, notwithstanding that paragraph, the appointment may be made on the nomination of the Minister of a person who is qualified to be elected for the appointment.

(9) A member of the Authority, unless he sooner resigns or otherwise ceases to hold office, continues in office for a period of 3 years, except that when a member of the Authority dies or ceases to hold office otherwise than by reason of the effluxion of time the member appointed to fill the vacancy ceases to hold office at the expiration of the unexpired term of office of the member in whose place he is appointed.

(10) The members of the Authority are not, as such, subject to the *Public Service Act 1973*, but an officer of the Public Service may hold office as a member of the Authority in conjunction with his office as an officer of the Public Service.

(11) A decision of the Authority is not invalidated and shall not be called in question by reason of a deficiency or irregularity in, or in connection with, the election or appointment of any member of the Authority.

Removal of
members of
Authority.

4—(1) The Governor may remove any member of the Authority from office if he is satisfied that that member—

- (a) has become permanently incapable of carrying out the duties of his office;
- (b) has misconducted himself in the performance of the duties of his office;
- (c) has, without the leave of the Authority, been absent from 3 or more consecutive meetings of the Authority;
- (d) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors;

(e) has been convicted (whether in this State or elsewhere) of an offence of such a nature that, in the opinion of the Governor, renders it improper for that member to continue to hold his office; or

(f) fails to comply with his obligations under section 5.

(2) The Governor may remove from office a member of the Authority if the Governor is satisfied that, having regard to the circumstances that have arisen since his appointment, the member is no longer a suitable person to perform his duties as a member of the Authority.

(3) No person who is a member of the Parliament of the Commonwealth or of this State shall be appointed a member of the Authority and a member of the Authority who becomes a member of either of those Parliaments vacates his office as member of the Authority.

5—(1) A member who is directly or indirectly interested in a contract made or proposed to be made by the Authority otherwise than as a member of, and in common with other members of, an incorporated company consisting of not less than 25 persons shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Authority and shall not take part after the disclosure in any deliberation or decision of the Authority with respect to the contract.

Members to disclose interest in a contract.

(2) A disclosure made under subsection (1) shall be recorded in the minutes of the Authority and so long as a member is debarred from taking part in the deliberations at any meeting he shall be disregarded for the purpose of constituting a quorum of the Authority.

(3) This section does not apply to an interest arising only from the operation of a quota or to the sale or delivery to, or purchase by, the Authority of any quota potatoes.

6—(1) The Authority shall meet at such times and places as the chairman may determine, and the chairman shall convene a meeting of the Authority whenever requested, in writing, so to do by 4 other members.

Proceedings of the Authority.

(2) Subject to any directions of the chairman, the deputy chairman may exercise any of the functions of the chairman under subsection (1).

(3) Any 4 members of the Authority, one of whom shall be a member appointed under section 3 (4) (c), constitute a quorum for the transaction of the business of any meeting.

(4) The chairman shall preside at meetings of the Authority or, if there is no chairman or the chairman is absent, the deputy chairman shall preside.

(5) If at a meeting of the Authority there is not present a person who is required to preside at the meeting, such one of the members present as they may choose shall preside.

(6) The chairman or other person presiding at a meeting of the Authority has a deliberative vote only.

(7) Any question arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting on the question, and, in the event of an equality of votes on any matter before a meeting of the Authority, that matter stands adjourned to the next meeting of the Authority.

(8) The Authority shall cause minutes of each meeting to be kept and shall, as soon as those minutes have been confirmed at a subsequent meeting, cause a copy of them to be forwarded to the Minister.

(9) The Minister or a person authorized by him in that behalf may attend any meeting of the Authority but shall not vote on any matter before that meeting, and the Minister or other person attending a meeting under this subsection has the right at the meeting to obtain such information as he may require upon any matters relating to the operations or proposals of the Authority.

(10) Subject to this section the Authority may regulate its own procedure.

Remuneration
and allowances
of members of
the Authority.

7—(1) The Authority shall pay to the members of the Authority such remuneration, allowances, and expenses (if any) as the Governor may determine.

(2) Until such day as the Treasurer may appoint, any remuneration, allowances, and expenses otherwise payable under this section by the Authority shall be paid by the Minister but on demand being made by the Treasurer after that day the Authority shall reimburse to the Treasurer the amount so paid and the amount so reimbursed shall be paid into the Consolidated Revenue.

(3) No remuneration, allowances, or expenses shall be paid to an officer of the Public Service who is a member of the Authority except as may be approved by the Public Service Board.

Staff.

8—(1) The Authority shall appoint a suitable person to be secretary of the Authority, and may employ such staff as it considers necessary.

(2) The Minister, with the approval of the Public Service Board, may arrange for the Authority to have the use of the services of any officer or temporary employee of the Public Service.

(3) Part V of the *Public Service Act* 1973 does not apply to the Authority or its employees.

(4) The Authority may make arrangements for the provision for the payment of superannuation and other benefits to, or in respect of, persons employed by the Authority and may make such contributions and other payments as it determines in respect of those arrangements.

(5) For the purposes of the *State Employees (Long-Service Leave) Act* 1950 a person employed by the Authority shall be deemed to be employed in an undertaking carried on on behalf of the State by the Authority.

9—(1) The Authority shall exercise the powers conferred on it by this Act for the purpose of— Functions and powers of the Authority.

- (a) regulating and controlling the marketing of potatoes to ensure an adequate supply of potatoes in the State; and
- (b) promoting the use or consumption in the State or elsewhere of potatoes produced in the State.

(2) For the purposes of carrying out, or facilitating the carrying out, of its functions under this Act, the Authority may enter into and carry out contracts for the purchase or sale of potatoes and such other transactions as it considers necessary.

(3) The Authority may make arrangements with any person for that person to act as agent of the Authority in the carrying out of any transaction that the Authority is authorized to carry out under this Act, and any such arrangement may provide for the remuneration of that person in respect of his so acting.

(4) The Authority may become a member of, or participate in the activities of, any organization or authority in this State or elsewhere, if it considers it desirable so to do for the purposes of this Act.

PART III

REGISTRATION OF PERSONS ENGAGED IN THE POTATO INDUSTRY

10—(1) The Authority may, upon the application of a person to it and the payment of the prescribed fee, register that person as a potato grower if it is satisfied that he will grow potatoes for sale during the period in respect of which he seeks registration. Registration.

(2) The Authority may, upon application made to it in respect of specified premises and the payment of the prescribed fee, register the person by whom the application is made as—

- (a) a potato wholesaler;
- (b) a potato pre-packer; or
- (c) a potato part-processor,

in respect of the premises specified in the application.

(3) No registration shall be granted under subsection (2) in respect of any premises unless the Authority is satisfied that the premises are suitable for use and will be used by the applicant for the purposes for which the registration is granted.

(4) In this section “prescribed fee”, in relation to a registration of any kind, means such fee (if any) as may be prescribed in relation to that registration by regulations under this Act or if no fee is so prescribed such fee as the Authority, with the approval of the Minister, may determine.

(5) A person shall be registered subject to such terms and conditions as the Authority may determine and any such terms and conditions may be specified by reference to any classes of potatoes as may be applicable to the potatoes dealt with by that person.

(6) A registration under this section as a potato grower, unless it is sooner cancelled, remains in force for such period as the Authority on the grant of registration determines.

(7) A registration under this section, otherwise than as a potato grower, expires, unless it is sooner cancelled, on 30th June next following the day on which it is issued.

(8) The fees payable under this section shall be paid to the Authority.

(9) It shall be a condition of the registration of a potato wholesaler and a potato pre-packer that the provisions of an order made under section 23 are complied with.

(10) Nothing in this section shall be construed as preventing more than one registration under subsection (2) of the same person or in respect of the same premises.

(11) On the death of a person registered under this section his legal personal representatives shall be deemed to be registered in his stead and, where a person who is registered jointly with another person dies, his legal personal representatives shall be deemed to be registered jointly with those other persons.

11—(1) Where a person who is registered, other than as a potato grower, fails to comply with any term or condition of his registration or commits any breach of this Act, the Authority may, by giving that person 21 days' notice in writing, cancel or suspend his registration. Cancellation of registration.

(2) Where the Authority cancels any registration under subsection (1) the registration ceases to have effect upon the date specified in the notice.

(3) Where a registration is suspended that registration is of no effect during the period specified in the notice as the period for which registration is suspended.

12—(1) Any person who is aggrieved—

Appeals.

(a) by the refusal of the Authority to grant him a registration;

(b) by the terms on which a registration is granted; or

(c) by the cancellation or suspension of his registration,

may appeal to a magistrate.

(2) On the hearing of an appeal under subsection (1) (a) the magistrate (unless he dismisses the appeal) may direct the Authority to grant a licence in such terms, or vary the terms of the licence to which the appeal relates, in such manner as may be specified in the direction.

(3) On an appeal under this section, the magistrate (unless he dismisses the appeal) may quash or vary the decision to which the appeal relates and the decision, if it is varied, has effect as so varied.

(4) Regulations under this Act may make provision regulating the bringing of appeals under this section and with respect to the hearing and determination of any such appeal.

13—(1) No person shall—

(a) grow potatoes for sale or for use in any business unless he is a registered potato grower;

(b) sell potatoes by wholesale unless he is a registered potato wholesaler;

Penalty on unregistered persons engaging in potato industry.

- (c) carry on the business of packing potatoes into small parcels suitable for sale by retail except on premises in respect of which he is registered as a potato pre-packer; or
- (d) carry on the business of part processing potatoes except on the premises in respect of which he is registered as a potato part-processor.

Penalty: \$1 000.

(2) This section does not prohibit a person who is carrying on the business of a retailer of potatoes from pre-packing potatoes to be sold by him by retail.

PART IV

POTATO QUOTAS

Purpose of
quotas.

14—(1) Quotas shall be allocated by the Authority to registered potato growers in accordance with this Part, and may, in accordance with this Part, be varied from time to time.

(2) A quota allocated to a registered potato grower shall specify the quantities of potatoes of specified classes that are required to fulfil the quota and the period for delivery of those potatoes.

(3) In allocating or varying quotas under this Part the Authority shall endeavour to ensure that the potatoes grown to fulfil the quotas will be adequate to meet the demand in the State for potatoes grown in fulfilment of those quotas but will not create an excess of potatoes that are not readily disposable by the Authority.

Potato Quota
Review
Committee.

15—(1) For the purposes of this Part, there shall be established a committee to be known as the Potato Quota Review Committee.

(2) The Review Committee shall consist of 3 members appointed by the Minister, of whom—

- (a) one shall be an officer of the Department of Agriculture who shall be chairman of the committee;
- (b) one shall be a registered potato grower; and
- (c) one shall be a registered potato wholesaler.

(3) A member of the Review Committee holds office under the terms in his instrument of appointment, but may resign his office by notice in writing to the Minister.

(4) The members of the Review Committee are not, as such, subject to the *Public Service Act 1973*, and a member of that committee may hold office as such in conjunction with his office in the Public Service.

(5) No person who is a member of the Authority shall be a member of the Review Committee.

(6) The chairman of the Review Committee or, in his absence or if there is no chairman, such one of the other members present as they may choose, shall preside at each meeting of the committee.

(7) The quorum at any meeting of the Review Committee shall be two.

(8) A decision of a majority of the members present at a meeting of the Review Committee shall be the decision of the committee; and if there is an equality of votes on any matter before the committee that matter stands adjourned to the next meeting of the committee.

(9) Subject to this Act the Review Committee shall regulate its own proceedings.

(10) The Minister may pay to a member of the Review Committee who is not an officer in the Public Service such remuneration as the Governor may approve, and may pay to any member of the committee such travelling or other allowances as may be so approved.

(11) The Minister may appoint a secretary of the Review Committee and may make arrangements for the provision of such staff and accommodation as the committee requires.

(12) With the approval of the Public Service Board, a person who holds office in the Public Service may be secretary of the Review Committee or serve it in any other capacity.

16—(1) In respect of any class of potato the Authority or its agent shall fix the period within which quota potatoes of that class are to be delivered to the Authority, that period being referred to in this Act as the season for that class of potatoes.

Allocation of
quotas at
commencement
of season.

(2) At the time determined by the Authority before the commencement of the season for any class of potatoes, registered potato growers who wish to sell potatoes of that class during the season may apply to the Authority for a quota.

(3) For a season for a class of potato for consumption in this State the Authority shall allocate quotas to such of the persons making application under subsection (2) as it may determine, having regard to the classes and quantity of potatoes grown by the applicant and sold for consumption in this State in the previous year or years.

(4) References in this section to the potatoes grown by any person shall be construed as including references to potatoes grown by that person in pursuance of arrangements made by him with other persons.

Alteration of
quotas and
new quotas.

17—(1) In accordance with this section, a quota allocated to a person for any season may be altered during that season, and, during a season a quota may be allocated to a person who becomes registered as a potato grower during the season and applies for a quota.

(2) Before increasing or allocating new quotas during a season the Authority shall invite applications from existing quota holders for applications for increases in the quotas allocated to them.

(3) The Authority shall not during a season allocate a new quota to a person who was not allocated a quota at the commencement of that season unless it is satisfied that it is not practicable for the demand for potatoes in the State to be met by an increase in the quota allocated to the existing quota holders.

(4) In reducing quotas, the Authority shall reduce all quotas for a season in a like proportion.

(5) The Authority may at the request of a quota holder cancel or reduce the quota allocated to him.

Transfer of
quotas.

18—(1) On the payment of the prescribed fee, and application by him to the Authority, a quota holder may, with the approval of the Authority, transfer his quota or a part of his quota to another registered potato grower.

(2) On the death of a quota holder his legal personal representatives become the quota holder and where a person dies who holds a quota jointly with another person his legal personal representatives become the quota holder jointly with those other persons.

Applications
to review
allocation or
variation of
quotas.

19—(1) Any person who is aggrieved by the quota allocated to him or by a variation of the quota so allocated (otherwise than under section 17 (5)) may, within 14 days of the service on him of the notice of the quota or the variation, require the Authority to refer its decision to the Review Committee, and the Authority shall comply with that requirement.

(2) On a decision of the Authority being referred to it under this section the Review Committee may confirm the decision or direct that it be varied in such manner as the committee may specify and the Authority shall comply with the direction.

(3) Regulations under this Act may make provision for the manner in which references to the Review Committee under this section are to be made and heard and determined.

20 The Authority shall serve notice on an applicant of the quota allocated to him and of any variation of the quota so allocated; but the allocation or variation does not have effect until the time has expired for the making of a request for the Authority to refer its decision to the Review Committee for the review of the allocation or variation or, if such a request is made, until it is withdrawn or a final direction is given by the Review Committee.

Notification
of quotas.

21—(1) The subsistence of a quota allocated to any person has effect as a contract between the Authority and that person by which it is agreed that, subject to the prescribed terms and conditions, that person will deliver to the Authority such potatoes as are necessary to fulfil the quota and that the Authority will accept the potatoes so delivered and make payment therefor in accordance with section 22.

Effect of
quotas.

(2) The prescribed terms and conditions mean the terms and conditions notified by the Authority to the person to whom the quota was allocated at or before the time the quota was so allocated.

22—(1) The quota potatoes accepted by the Authority shall be disposed of by the Authority in such manner as it considers most appropriate to the proper discharge of its duties.

Disposal by
Authority of
quota potatoes
and application
of proceeds.

(2) Except as provided in subsection (3), where any quota potatoes are sold by the Authority the quota holder by whom the potatoes were delivered to the Authority is entitled to receive from the Authority the net proceeds of the sale.

(3) The Authority may determine that the net proceeds from the sale of any class of quota potatoes delivered to it during the season or during part of that season for that class of potatoes shall be pooled, and when it so determines, it shall distribute those proceeds among the quota holders who delivered the potatoes in proportion to the quantities of potatoes delivered by each of them.

(4) For the purposes of subsection (3) a decision of the Authority with respect to any of the following matters shall be final:—

- (a) The class of any potatoes;
- (b) The quantity of any potatoes delivered to the Authority;
- (c) The period within which any potatoes were delivered to the Authority;
- (d) The purposes for which any potatoes are delivered to the Authority.

(5) Where the Authority is of opinion that any potatoes delivered to it are not acceptable for the use for which they are intended it may exclude from any pooling otherwise required by a determination under subsection (3) the proceeds of the sale of those potatoes.

(6) In determining the net proceeds of the sale of any potatoes the Authority shall deduct from the actual proceeds of the sale such amounts as it considers reasonable to appropriate for—

- (a) the expenditure incurred by the Authority in the storage, carriage, distribution, and sale of quota potatoes;
- (b) reducing or liquidating any amounts necessary to repay advances made to, and for a sinking fund in respect of any loan raised by, the Authority, and for payment of the interest payable in respect of such advances or loan; and
- (c) any other expenditure that the Authority may incur in the exercise of any of its powers or functions under this Act.

Authority may
fix maximum
prices and
charges.

23—(1) The Authority may by order—

- (a) fix the maximum price at which potatoes may be sold by wholesale; and
- (b) fix maximum charges or rates for the washing and pre-packing of potatoes.

(2) The prices fixed under subsection (1) (a) may vary according to the place, time, or conditions of sale, or the grade, quality, or quantity of potatoes according to any circumstances, rule, or formula prescribed in the order.

(3) An order made under this section may be of general application throughout the State, or any part thereof, or may apply only to persons named in it.

(4) If an order is of general application throughout the State or any part thereof it shall be published in such newspapers as the Authority thinks fit.

(5) If an order made under this section is only applicable to persons named in it, it shall be served on those persons in accordance with section 41.

(6) Any person who contravenes an order made under this section is guilty of an offence and liable to a penalty of \$500.

24—(1) Except to the extent to which the Minister orders, potatoes grown exclusively for sale to and under written contract between registered potato growers and processors, being potatoes grown for processing and for the seed requirements of the processing industry, shall be exempt from the operation of this Part. Exemptions from Part.

(2) Potatoes sold for export from this State are exempt from the operation of this Part.

25—(1) Except as otherwise provided in this Part, it is unlawful to sell potatoes otherwise than to the Authority or its agent and any person who contravenes this subsection is guilty of an offence and liable to a penalty of \$1 000. Prohibition on sale of potatoes outside quota.

(2) This section does not apply to the sale of potatoes by the Authority or to the sale of potatoes which have been disposed of by the Authority.

PART V

FINANCIAL PROVISIONS

26—(1) The funds of the Authority shall consist of— Funds of the Authority.

- (a) any money appropriated by Parliament and payable to the Authority for the purposes of this Act;
- (b) any money that the Authority may borrow under and subject to the provisions of this Act; and
- (c) all other moneys that the Authority receives under this Act.

(2) Any funds of the Authority, until they are required by the Authority for the purposes of this Act, may be invested in such manner as the Treasurer may approve and all interest derived therefrom shall be paid to the Authority.

(3) Subject to this Act the funds of the Authority shall be applied in the exercise of its functions under this Act in such manner as it considers appropriate.

(4) The funds of the Authority—

- (a) shall be paid from time to time as they are received by it to the credit of an account in the name of the Authority kept at a bank to be approved by the Treasurer; and
- (b) shall be chargeable with the remuneration and expenses of the members of the Authority, and with all other expenditure for which the Authority is liable under this Act or which is lawfully incurred by the Authority in the performance and carrying out of its powers, authorities, functions, and duties under this Act.

Payments for
public service
assistance.

27—(1) The Authority shall pay to the Treasurer such sums as he may determine in respect of services rendered to the Authority in accordance with section 8 (2).

(2) Sums paid to the Treasurer under this section shall be paid into the Consolidated Revenue.

Advances by
Treasurer.

28—(1) If at any time the funds of the Authority are not sufficient for the purpose of defraying the costs, charges, and expenses incurred by it in the exercise of its functions, the Treasurer, for the purpose of making up the deficiency, may advance to the Authority on such terms and conditions as are agreed between the Treasurer and the Authority such sums as may be so agreed.

(2) The amount of any advance made pursuant to subsection (1) is a charge upon the revenue of the Authority and is repayable by the Authority to the Treasurer as and when money becomes available to the Authority to make the repayment.

(3) Any moneys paid by the Treasurer to the Authority under this section may be paid to the Authority out of moneys provided by Parliament for the purpose.

Reserve funds.

29—(1) The Authority shall make such annual provision as the Treasurer may approve for—

- (a) depreciation of assets; and
- (b) the other purposes of this section,

and the moneys so set aside shall be credited to a special account.

(2) Subject to subsection (3) the Authority may out of the moneys at its disposal for the purposes of this Act set aside such sums as it considers necessary for the purpose of—

- (a) making provision for undetermined losses or liabilities; or
- (b) creating a reserve against contingencies.

(3) The Authority shall not exercise the power conferred on it by subsection (2) unless the Treasurer has approved of the amount of each provision or reserve and the purposes for which each provision or reserve is made.

(4) The moneys provided—

(a) pursuant to subsection (1); or

(b) by reason of the making of a provision or the creating of a reserve pursuant to subsection (2),

may, with the consent of the Minister, be applied by the Authority for all or any of the purposes set forth in subsection (5).

(5) The purposes for which moneys may be applied under subsection (4) are as follows:—

(a) Making investments in such securities as the Treasurer may approve;

(b) Financing the purchase of new assets or the replacement of assets;

(c) Defraying the costs and expenses incurred by the Authority in or in connection with the exercise by the Authority of any of the functions and powers conferred on it by section 9.

30—(1) For the purposes of carrying out its powers and functions under this Act, the Authority is authorized with the prior approval in writing of the Minister and the Treasurer to borrow money upon such terms and conditions as the Treasurer approves. Borrowing by the Authority.

(2) The Treasurer on behalf of the State is hereby authorized to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Authority under this section and the payment of interest thereon.

(3) This section does not authorize the guarantee of the repayment of principal moneys in excess of \$500 000.

(4) Before a guarantee is given by the Treasurer under this Act, the Authority shall give to the Treasurer such security (if any) as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(5) The Treasurer shall cause any money required for fulfilling any guarantee given by him pursuant to this section to be paid out of the Consolidated Revenue which, to the necessary extent, is

appropriated accordingly, and the Treasurer shall cause any sums received or recovered by him from the Authority or otherwise in respect of a sum so paid by the Treasurer to be paid into the Consolidated Revenue.

(6) Where, in pursuance of a guarantee given under this Act, the Treasurer is required to make a payment to a lender, the Authority shall, on demand being made on it by the Treasurer, pay to the Treasurer any amount so paid by him to the lender together with interest thereon at the same rate of interest as the rate payable by the Authority to the lender in respect of the principal moneys lent to the Authority by that lender.

Sinking funds.

31—(1) The Authority shall invest in its name, in such manner as the Treasurer thinks fit, all moneys set aside for the purpose of redeeming any loan raised pursuant to section 30 as a sinking fund and all interest accruing thereon.

(2) The Authority shall from time to time—

- (a) apply the accumulated sinking fund in repayment of the principal of any loan raised by the Authority pursuant to this Part when the loan becomes repayable; and
- (b) apply that fund in the redemption of any debentures or inscribed stock issued or created pursuant to this Part.

Accounts to be submitted yearly.

32—(1) The Authority shall keep in respect of its operations under this Act such accounts and prepare such annual financial statements in relation thereto in such form and containing such particulars as the Treasurer may approve.

(2) As soon as practicable after the close of each financial year, the Authority shall submit to the Minister a copy of the annual financial statements for that year.

Audit of accounts.

33 The accounts of the Authority shall be subject to the provisions of the *Audit Act* 1918.

Annual report.

34—(1) Within 3 months after the close of each financial year, the Authority shall submit to the Minister a report of its activities during that financial year.

(2) The Minister shall cause a copy of any report submitted to him under subsection (1) to be laid on the table of each House of Parliament within the first 14 sitting days after it is received by him.

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

35—(1) The Minister may on the recommendation of the Authority, by order, declare that all or any provisions of this Act specified in the order do not apply to, or in respect of—

- (a) a specified part of the State;
 - (b) a specified person or persons of a specified class; or
 - (c) potatoes of a specified class,
- specified in the order.

(2) An order under this section may be absolute, or may be subject to such conditions as the Minister thinks fit and as are specified in the order.

(3) A class referred to in subsection (1) may be defined by reference to any specified circumstances or factors.

(4) The Minister on the recommendation of the Authority may, by order, cancel or amend an order made under this section.

36 The Authority may appoint inspectors for the purposes of this Act.

37—(1) For the purpose of facilitating the carrying out of its functions the Authority may require any person—

- (a) engaged in the business of growing, selling, or otherwise dealing with potatoes, or of the transport of potatoes; or
- (b) using or occupying any place for the storage, washing, or packing of potatoes, or part processing,

to produce to the Authority or make available for inspection by an inspector or any other duly authorized officer of the Authority any books of account and to supply to the Authority or that officer such other particulars in relation to the business as the Authority may reasonably require.

(2) An inspector may enter and inspect—

- (a) any place where he has reasonable grounds for believing that potatoes are grown with the intention that the whole or part of the harvest shall be sold;

(b) any place where he has reasonable grounds for believing that potatoes are kept for sale; and

(c) any place where he has reasonable grounds for believing that potatoes intended for sale are stored.

(3) An inspector may inspect the contents of any vehicle in any case where he has reasonable grounds for believing that that vehicle contains potatoes intended for sale.

(4) An inspector may require a person registered under this Act, and any person apparently in charge of any place referred to in subsection (2) or any vehicle referred to in subsection (3)—

(a) to furnish the inspector with such information as he may require with respect to any potatoes apparently in the charge of the person from whom the information is required; and

(b) to furnish the inspector with such accounts, records, books, or other documents that are in the custody or control of the person.

(5) A requirement that may be made by an inspector under this section may, in the case of a body corporate, be made of the director, secretary, manager, or other person appearing to have management of the business carried on by the body corporate.

(6) Any person who—

(a) without reasonable excuse refuses or fails to comply with a requirement made of him under this section; or

(b) in response to such a requirement furnishes information that he knows to be false or does not believe to be true,

is guilty of an offence.

Penalty: \$500.

Evidentiary provisions.

38 In any proceedings production of a document purporting to be a certificate signed by the chairman or any two members of the Authority stating that any resolution was passed or any decision or determination was made by the Authority is, unless the contrary is shown, *prima facie* evidence of the facts stated in that certificate.

39 No proceedings in respect of offences against this Act shall ^{Proceedings.} be taken otherwise than by the Authority or by some person with the authority of the Authority.

40 No action, claim, or demand lies or shall be made or allowed ^{Indemnity.} by or in favour of a person against the Crown, the Minister, the Authority, a member of the Authority, the Secretary, or any other officer of the Authority, or a member of the Review Committee, or other person acting in good faith in the execution of this Act, for or in respect of any damage, loss, or injury sustained, or alleged to be sustained, by reason of the operation of this Act, or anything done, or omitted to be done, in good faith in the execution, or purported execution, of this Act.

41 Where a notice or other document is required to be served ^{Notices.} on any person under this Act it may be so served—

- (a) by delivering it to him personally;
- (b) by leaving it, addressed to him, at his usual or last-known place of abode or business with some person apparently over the age of 16 years who appears to be residing or employed there; or
- (c) by sending it by post addressed to him at his usual or last-known place of abode or business.

42—(1) The Governor may make regulations under this Act. ^{Regulations.}

(2) Without limiting the generality of the powers conferred by subsection (1) the regulations under this Act may contain provisions with respect to—

- (a) the particulars to be kept by potato growers in respect of their crops; and
- (b) the books and records to be kept by, and the returns to be made to the Authority by, persons engaged in the production, collection, washing, pre-packing, part-processing, transport, storage, distribution, delivery, use, or sale of potatoes.

(3) Different regulations may be made under this section so as to apply to different areas, or different classes of persons, or in different circumstances, or so as to apply differently according to such factors as may be specified in the regulations.

(4) The regulations may provide that, in cases specified in the regulations or a class of case so specified, whether on conditions so specified or unconditionally, persons, acts, or things, or a class of persons, acts, or things, may be exempted from the provisions of the regulations, either wholly or to such extent as is so specified.

(5) The regulations—

- (a) may adopt, either wholly or in part, and either specifically or by reference, any of the standard rules, codes, or methods relating to potatoes or other vegetables of any specified body or institution; and
- (b) may require any matter or thing to be verified by statutory declaration.

(6) A regulation may impose a penalty not exceeding \$250 for any breach thereof and in the case of a continuing offence, whether of commission or of omission, to a daily penalty of \$20 for each day or part thereof that the offence continues after the offender is convicted.

Existing contracts.

43—(1) Section 25 does not render unlawful the sale of potatoes that have before the commencement of that section been sold or, to such extent as the Authority allows, been agreed to be sold.

(2) Where by reason of the coming into effect of any provision of this Act a contract is frustrated, it shall be deemed to have been a contract for the sale only of those potatoes already delivered under that contract at a price based upon the quantity of potatoes so delivered.

Dissolution of Potato Marketing Board.

44—(1) Subject to this section, the Acts specified in Schedule II are repealed.

(2) By virtue of this section all property, rights, and liabilities that immediately before the commencement of this section were vested in the Potato Marketing Board are transferred to and vest in the Authority.

(3) Any person employed by the Potato Marketing Board at its dissolution under this Act shall be deemed to have been transferred to the employment of the Authority under such terms and conditions as the Authority may determine.

45 This Act expires at the expiration of a period of 3 years ^{Expiry of Act.} beginning on the commencement of section 3.

SCHEDULE I

(Section 3 (3))

PART I

Initial appointment of the member of the Authority under section 3 (4) (b)

1. The Minister shall request such organizations as in his opinion best represent potato wholesalers in this State to furnish him, within such time as may be specified in the request, with the names of persons considered suitable for appointment as members of the Authority representing potato wholesalers.

2. If, pursuant to the request made under paragraph 1, the names of at least 3 persons are submitted to the Minister, he shall nominate one of those persons for appointment under section 3 (3).

3. If no names or insufficient names are furnished to the Minister for the purposes of the foregoing provisions of this Part, he may nominate a person for appointment who, in his opinion, is suitable to represent potato wholesalers as a member of the Authority.

PART II

Initial appointment of members of the Authority under section 3 (4) (c)

1. The Minister shall request such organizations as in his opinion best represent potato growers in this State to furnish him within such time as may be specified in the request with the names of persons considered suitable for appointment as members of the Authority representing potato growers.

2. If, pursuant to the request made under paragraph 1, the names of at least 5 persons are submitted to the Minister, he shall nominate 3 of those persons for appointment under section 3 (3).

3. If no names or insufficient names are furnished to the Minister for the purposes of the foregoing provisions of this Part, he may nominate 3 persons for appointment who, in his opinion, are suitable to represent potato growers as members of the Authority.

4. In making nominations under this Part the Minister shall endeavour to nominate at least two persons who have sold potatoes for consumption in this State in the previous 12 months.

SCHEDULE II

(Section 44)

ACTS REPEALED

Year and number of Act	Short title of Act
No. 73 of 1952	<i>Potato Marketing Board Act 1952</i>
No. 10 of 1970	<i>Potato Marketing Board Act 1970</i>
No. 85 of 1973	<i>Potato Marketing Board Act 1973</i>