

DRIED FRUITS ACT.

Act No. 21, 1933.

George V,
No. 21, 1933. An Act to make provision for the regulation of the dried fruits industry; to reconstitute the New South Wales Dried Fruits Board; to provide for the registration of producers, agents, and persons selling dried fruits, and for the registration of packing sheds and dehydrators dealing therewith; to repeal the Dried Fruits Act, 1927, and the Dried Fruits (Amendment) Act, 1929; to amend the Marketing of Primary Products Act, 1927-1930, and certain other Acts; and for purposes connected therewith.
[Assented to, 20th December, 1933.]

BE

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

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PART I.

PRELIMINARY.

1. This Act may be cited as the “Dried Fruits Act, 1933,” and is divided into parts as follows:—

PART I.—PRELIMINARY—ss. 1-5.

Parts.

PART II.—PURCHASE AND COMPULSORY ACQUISITION OF DRIED FRUITS—ss. 6-8.

PART III.—THE DRIED FRUITS BOARD.—ss. 9-19.

PART IV.—PACKING SHEDS, DEALERS, GROWERS AND DEHYDRATORS—ss. 20-34.

PART V.—MARKETING OF DRIED FRUITS IN NEW SOUTH WALES—s. 35.

PART VI.—MISCELLANEOUS—ss. 36-40.

2. The Dried Fruits Act, 1927, and the Dried Fruits (Amendment) Act, 1929, are hereby repealed.

3. (1) The repeal of the Acts referred to in section two of this Act shall not operate to break the continuity of the existence of the New South Wales Dried Fruits Board constituted under the Acts repealed by this Act and existing at the commencement of this Act.

(2) (a) All persons appointed or employed under the provisions of the Acts repealed by this Act and holding office at the commencement of this Act shall continue to hold office and shall be deemed to have been appointed or employed under the provisions of this Act.

(b) All persons authorised under the provisions of the Acts repealed by this Act to do any acts or things shall, where the authority is still in force at the commencement of this Act, be deemed to have been authorised under the provisions of this Act.

(c)

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(c) Any agreement made under the provisions of the Acts repealed by this Act for the utilisation of the services of any officer, inspector or servant of the Commission, and in force at the commencement of this Act, shall be deemed to have been made under the provisions of this Act.

(3) All proclamations and regulations made under the provisions of the Acts repealed by this Act and in force at the commencement of this Act, shall, to the extent to which they are not inconsistent with this Act, continue in force until revoked or repealed or replaced by proclamations or regulations under this Act.

(4) All registrations of packing sheds and renewals and transfers thereof and all registrations of dealers and growers, made under the provisions of the Acts repealed by this Act and in force at the commencement of this Act, shall continue in force until the thirty-first day of December next after the commencement of this Act.

(5) All levies, fees, allowances, charges and expenses payable, and all penalties, incurred under the provisions of the Acts repealed by this Act and payable or incurred at the commencement of this Act shall be deemed to be payable and to have been incurred respectively under the corresponding provisions of this Act.

(6) The roll of growers compiled under the provisions of the Acts repealed by this Act and existing at the commencement of this Act shall be the roll of growers for the purposes of this Act, until a roll of growers is compiled under the provisions of this Act.

(7) Any act, matter or thing commenced or any right or privilege acquired or any liability, civil or criminal, obligation, penalty or punishment incurred, under the authority of the Acts repealed by this Act, and commenced, acquired or incurred before the commencement of this Act shall be deemed to have been commenced, acquired or incurred, as the case may be, under the authority of this Act.

(8) Nothing in this section contained shall limit any saving in the Interpretation Act of 1897.

4. In this Act unless inconsistent with the context or subject matter:—

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Interpreta-
tion.

“ Board ” means the New South Wales Dried Fruits Board.

“ Buck currants ” means dried fruits produced solely from currant grapes and which contain more than five per centum of berries containing seeds.

“ Buy ” includes barter or exchange; and also includes agreeing to buy; and “bought” has a corresponding meaning.

“ Cleanness ” in relation to dried fruits means free from foreign substances.

“ Dealer ” means any person who buys or sells in any one year whether on his own behalf or as agent for another person more than one ton of dried fruits, but does not include—

- (a) a person who sells only such dried fruits as have been bought from dried fruits dealers who are registered as such with the board;
- (b) a person who is the owner of a packing shed registered as such with the board;
- (c) a grower who sells the dried fruits produced by him only to a packing shed or dealer registered as such with the board;
- (d) an auctioneer who sells dried fruits in the ordinary course of his business.

“ Dehydrator ” means any structure used for dehydration in the process of drying dried fruits.

“ Disease ” in relation to dried fruits means any abnormal condition of or in dried fruits, whether consisting of the presence of or caused by or due to the operation, development, growth or decay of any insect, mould or fungus.

“ Drawback fruit ” means dried fruits returned to a grower for his personal domestic use by the person who is the owner of the packing shed to which such grower sent his fruit to be packed.

“ Dried

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—

“Dried apricots” means dried fruits either moistened by the addition of water or not so moistened, produced from any variety of apricots and include apricots which have been dried whole and from which the pits have either been removed or have not been removed.

“Dried currants” means dried fruits produced solely from currant grapes and which do not contain more than five per centum of berries containing seed.

“Dried fruits” means dried currants, dried sultanas, dried lexias, dried prunes, dried peaches, dried apricots, dried nectarines, dried pears produced in Australia, or any other variety of dried fruits produced in Australia which are declared by the regulations to be dried fruits for the purposes of this Act.

“Dried lexias” means dipped dried fruits produced from the following varieties of grapes: Waltham Cross (sometimes known as Malaga); Gordo Blanco; Muscat of Alexandria.

“Dried nectarines” means dried fruits produced from any variety of nectarines.

“Dried peaches” means dried, peeled or unpeeled fruits produced from any variety of freestone or clingstone peaches.

“Dried pears” means dried fruits produced from any variety of pears and include dried pears from which the cores have been removed.

“Dried prunes” means dried fruits either moistened by the addition of water or not so moistened produced from the following varieties of prunes only:—

D’Agen;

Robe de Sargent;

Splendor;

Old French (sometimes known as Ardmona or Goulburn Valley);

Fellemburg;

Fellemborg;
Imperial; and
Sugar.

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- “Dried sultanas” means dried fruits produced solely from sultana grapes.
- “Foreign substance” means dirt, gravel, sand, stalks, stones, insects, insect refuse or other extraneous matter.
- “Freshness” in relation to dried fruits means that the dried fruits are the product of the latest crop or that the condition of the dried fruits has not been materially impaired by age or other cause.
- “Grade” shall have relation to appearance, colour, cleanness, flavour, freshness, ripeness, kind, maturity, number, quality, size, form, soundness, texture, variety or weight of dried fruits.
- “Grower” means—
- (a) in the case of dried currants, dried sultanas, dried lexias, or dried prunes, any person who is engaged in the production of dried currants, dried sultanas, dried lexias, or dried prunes and whose production during the then current season or during any one of the preceding two seasons was more than five hundredweights of dried currants or more than five hundredweights of dried sultanas or more than five hundredweights of dried lexias or more than five hundredweights of dried prunes grown by him;
 - (b) in the case of dried peaches, dried apricots, dried nectarines or dried pears, any person who is engaged in the production from time to time of dried peaches, dried apricots, dried nectarines or dried pears and whose production during the then current season or during each season of at least three of the five preceding seasons was more than three hundredweights of dried peaches or more than
three

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three hundredweights of dried apricots or more than three hundredweights of dried nectarines or more than three hundredweights of dried pears grown by him;

- (c) in the case of dried fruits which are declared by the regulations to be dried fruits for the purposes of this Act, any person who is engaged in the production of those dried fruits, and whose production thereof during such season as may be prescribed was not less than the quantity prescribed.

For the purposes of this definition " season " means:—

- (i) in the case of dried currants, dried sultanas, dried lexias, dried prunes, dried peaches or dried pears the calendar year, and
- (ii) in the case of dried apricots or dried nectarines the period commencing on first day of November in any year and ending on thirty-first day of October of the succeeding year, and
- (iii) in the case of dried fruits which are declared by the regulations to be dried fruits for the purposes of this Act such period as is prescribed.

" Immediate containers " includes cartons, jars, bottles, cans, tins, and cellophane and other wraps which contain dried fruits.

" Inspector " means any person appointed or authorised to act as an inspector for the purposes of this Act.

" Package " means wooden case, corrugated cardboard container, box, barrel, bag, sack, immediate container, covering receptacle, or any other thing which contains dried fruits.

" Packing shed " means any building, erection or other place whatsoever in which or where dried fruits

fruits are prepared, stemmed, processed, graded, sorted or packed, whether such building or erection or place is or is not used for any other purpose.

“ Prescribed ” means prescribed by this Act or by the regulations.

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

“ Purchase ” includes barter or exchange; and also includes agreeing to purchase; and “ purchased ” has a corresponding meaning.

“ Regulations ” means regulations made under this Act.

“ Soundness ” in relation to dried fruits means free from disease, damage, fermentation, mould or decay.

“ Store ” means any store, building, or other erection or place whatsoever where dried fruits are stored.

“ Sell ” includes barter or exchange; and also includes agreeing to sell, or offering or exposing for sale, or having in possession for sale, or receiving, sending, forwarding or delivering for or on sale in New South Wales; or causing, suffering or attempting any of such acts or things; and “ sale ” and “ sold ” shall have a corresponding meaning.

“ The Commission ” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912-1931.

5. (1) The Governor may by regulation declare any variety of dried fruits produced in Australia to be dried fruits for the purposes of this Act, and may in like manner revoke or vary any such regulation. Extension of Act.

(2) Any such regulation shall take effect from a date specified in the regulation not earlier than three months after the date of publication of the regulation in the Gazette.

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Consequen-
tial amend-
ment of Act
No. 34, 1927,
s. 4.

(3) The Marketing of Primary Products Act, 1927-1930, is amended—

- (a) by omitting from the definition of “ Product ” in section four the words “ dried currants, dried sultanas, dried lexias ”;
- (b) by inserting at the end of the same definition the words “ or any dried fruits to which the Dried Fruits Act, 1933, for the time being applies.”

PART II.

PURCHASE AND COMPULSORY ACQUISITION OF DRIED FRUITS.

Minister may
purchase or
compulsorily
acquire dried
fruits.

6. The Minister may on behalf of His Majesty purchase by agreement or acquire compulsorily any dried fruits in New South Wales.

Provisions as
to compulsory
acquisition of
dried fruits.
cf. Act No. 13,
1927, s. 22.

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

Order by the
Minister.

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

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

Effect of
order.

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

The

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

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

- (c) The production of any such order or of a copy thereof, or of a telegram purporting to be a demand pursuant to such order and to be signed by the Minister, shall be sufficient authority for the delivery of possession of any dried fruits described or referred to, in such order or demand. Authority
for delivery
of possession.
- (d) All dried fruits described or referred to, in any such order or demand may, without any warrant other than this Act, be seized and taken possession of by any officer authorized either generally or in any particular case, in writing by the Minister in that behalf; and such officer, with any necessary assistance, may, for any of the purposes of this section, enter any place, at any time and use any force which may be necessary. Seizure
and taking
possession
of dried
fruits.
- (e) Any person who refuses to deliver, or delays or obstructs or hinders the delivery of, any dried fruits described or referred to in any such order or demand shall be liable to a penalty of not more Penalty for
refusal to
deliver and
for obstruction,
etc.

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more than one hundred pounds; and if such person is a company the individual person guilty of the offence, and also the managing director or other manager in New South Wales of the company, shall each be liable to the like penalty.

Disputes as
to amounts
payable.

- (f) In the event of any doubt or dispute as to the person legally entitled to receive any moneys payable under this section, the Minister may pay the same into the Supreme Court in its equitable jurisdiction to abide the order of that Court.

Effect of
receipts.

- (g) 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 make payment therefor.

Saving.

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

Powers of
Minister.
Financial
arrangements
for purchase
or acquisition
of dried fruits.

8. (1) The Minister may—

- (a) for the purpose of obtaining money to carry out any purchase or acquisition authorised by this Part of this Act arrange with any bank or other person for financial accommodation;
- (b) in such manner as he thinks fit sell or arrange for the sale of any dried fruits purchased or acquired.

Sale of dried
fruits pur-
chased or
acquired.

Proceeds
of sale.

(2) The proceeds of sale of any dried fruits purchased or acquired shall be paid to an account in Special Deposits Account in the Treasury and shall be made available to the Minister to meet the cost of or incidental to any purchase or acquisition under this Part and any surplus shall be made available to the board for the purpose of meeting expenses incurred in the administration of this Act or pursuant or incidental thereto.

PART III.

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THE DRIED FRUITS BOARD.

9. (1) There shall be a board to be called the New South Wales Dried Fruits Board which shall consist of five members:—

The Board.
cf. Act No.
13, 1927,
s. 4.

- (a) one appointed from time to time by the Governor who shall be chairman;
- (b) one elected by growers of dried currants, dried sultanas, dried lexias, or other dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act, whose holdings are situated within the irrigation areas known respectively as Yanco No. 1, Yanco No. 2 and Mirrool No. 1 in the State of New South Wales and in any irrigation area which may be constituted of lands within the State of New South Wales adjoining or adjacent to such first-mentioned irrigation areas;
- (c) one elected by growers of dried currants, dried sultanas, dried lexias, or other dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act, whose holdings are situated within the State of New South Wales elsewhere than within the irrigation areas referred to in paragraph (b) of this subsection;
- (d) one elected by growers of dried prunes, dried peaches, dried apricots, dried nectarines, dried pears or other dried fruits not being dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act whose holdings are situated within the counties of Forbes, Monteagle and Harden in the State of New South Wales;
- (e) one elected by growers of dried prunes, dried peaches, dried apricots, dried nectarines, dried pears or other dried fruits not being dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act
whose

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whose holdings are situated within the State of New South Wales elsewhere than within the counties of Forbes, Monteagle and Harden.

Term of
office.

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

(3) (a) The first general election of members under this Act by the growers referred to in paragraphs (b) and (c) of subsection one of this section shall be held on the sixth day of February, one thousand nine hundred and thirty-four.

(b) The first general election of members under this Act by the growers referred to in paragraphs (d) and (e) of subsection one of this section shall be held upon a date to be appointed by the Minister and notified in the Gazette.

Such date shall not be earlier than two months after the date on which it is notified in the Gazette.

(c) The members elected at the first general elections under this Act shall subject to this Act cease to hold office on the twenty-eighth day of February, one thousand nine hundred and thirty-seven.

(4) (a) During the month of February in the year one thousand nine hundred and thirty-seven, and in each third year thereafter a general election of members by the growers referred to in paragraphs (b), (c), (d), and (e) of subsection one of this section shall be held.

(b) The date of each such general election shall be appointed by the Minister and notified in the Gazette not later than fourteen days before the date so appointed.

(c) The members elected at any such general election shall take office upon the first day of March in the year in which they are elected, and shall, subject to this Act, cease to hold office on the last day of February, in the third year after the year in which they were elected.

(5) The Governor may remove any member from office for misbehaviour or incompetence.

Persistent neglect to answer official correspondence may be regarded as misbehaviour.

(6)

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

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Deputy
members.

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

A person so appointed shall have the same powers, rights and duties as an elected member.

A person so elected or appointed shall hold office during the remainder of his predecessor's term of office, but shall, if otherwise qualified, be eligible for election for an ensuing term.

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

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

(9) The chairman, elected members, deputy members, and appointed members shall be paid such fees and allowances as may be prescribed.

(10) The members of the board in office at the commencement of this Act shall continue to hold office until the sixth day of February, one thousand nine hundred and thirty-four, and shall then cease to hold office but shall be eligible to be elected under paragraphs (b) and (c) of subsection one of this section if duly qualified.

On and from the said sixth day of February, one thousand nine hundred and thirty-four, if elections have not then been held under paragraphs (d) and (e) of subsection one of this section the board shall until such elections have been held be deemed to be fully constituted by the chairman and the two members elected under paragraphs (b) and (c) of subsection one of this section and the quorum for any meeting shall be the chairman and one of such members.

10. (1) The office of any member shall become vacant if he—

(a) resigns his office by writing under his hand addressed to the Governor;

(b)

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- (b) without the permission of the board or the chairman fails to attend three consecutive meetings of the board, at which he is entitled to vote;
- (c) is removed by the Governor for misbehaviour or incompetence;
- (d) becomes bankrupt or assigns his estate for the benefit of his creditors;
- (e) is convicted of a felony or misdemeanour; or
- (f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898.

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

Incorporation of board.
cf. Act No. 13, 1927, s. 6 (1).

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

Meetings.

12. (1) Meetings of the board shall be called by the chairman.

The chairman may call a meeting of the board at any time and shall call a meeting of the board when requested to do so by any two of the elected members of the board.

(2) Meetings of the board shall be conducted and recorded as prescribed.

Decisions in the absence of meetings.

(3) The board may arrive at a decision in relation to any question or matter without holding a meeting of the board by the members indicating in writing addressed to the secretary of the board their individual decision.

Such individual decision shall be regarded as the vote of the member as if given at a meeting of the board and shall be kept by the secretary of the board in the board's records for reference purposes.

(4)

(4) Both at meetings of the board and in cases where decisions are given in writing if the question or matter to be considered is—

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Subdivision
of board.

- (a) solely in connection with dried currants, dried sultanas, dried lexias, or other dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act, only the chairman and the two members of the board elected by the growers of those varieties of dried fruits shall be entitled to vote;
- (b) solely in connection with dried prunes, dried peaches, dried apricots, dried nectarines, dried pears or other dried fruits not being dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act only the chairman and the members of the board elected by the growers of these varieties of dried fruits shall be entitled to vote;
- (c) of a general nature, all five members of the board shall be entitled to vote.

(5) At meetings of the board if the question or matter before the board is—

Quorum.

- (a) solely in connection with dried currants, dried sultanas, dried lexias, or other dried grapes, which are declared by the regulations to be dried fruits for the purposes of this Act, the chairman and one of the members elected by the growers of these varieties of dried fruits shall form a quorum;
- (b) solely in connection with dried prunes, dried peaches, dried apricots, dried nectarines, dried pears or other dried fruits not being dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act, the chairman and one of the members elected by the growers of these varieties of dried fruits shall form a quorum;
- (c) of a general nature, the chairman and one member elected by the growers of dried currants, dried sultanas, dried lexias, or other dried grapes which

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which are declared by the regulations to be dried fruits for the purposes of this Act, and one member elected by growers of dried prunes, dried peaches, dried apricots, dried nectarines, dried pears or other dried fruits not being dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act shall form a quorum;

and shall have all the powers and authorities conferred upon the board by this Act.

Majority
voting.

(6) Whenever the members who are entitled to vote in accordance with the provisions of subsections four and five of this section are not unanimous as to any question or matter whether at meetings of the board or in cases where decisions are given in writing, the question or matter shall be decided by the majority of votes, and the decision so arrived at shall be the decision of the board.

Elections.
cf. Act No.
13, 1927,
s. 7.

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

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

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

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

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

The regulations may provide for the conduct by post or otherwise of any election.

Subdivision
of roll of
growers.

14. (1) The Roll of Growers shall be divided into divisions, and each division shall consist of two parts, as follows:—

Division I.—Dried Vine Fruits.

Part A.

Part B.

Division

Division II.—Dried Tree Fruits.

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Part A.

Part B.

(2) (a) In Part A of Division I there shall be entered the names of growers of dried currants, dried sultanas, dried lexias, or other dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act whose holdings are situated within the irrigation areas known respectively as Yanco No. 1, Yanco No. 2 and Mirrool No. 1 within the State of New South Wales and in any irrigation area which may be constituted of lands within the State of New South Wales adjoining or adjacent to such first mentioned irrigation areas.

(b) In Part B of Division I there shall be entered the names of growers of dried currants, dried sultanas, dried lexias, or other dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act, whose holdings are situated within the State of New South Wales elsewhere than within the irrigation areas referred to in paragraph (a) of this subsection.

(c) In Part A of Division II there shall be entered the names of growers of dried prunes, dried peaches, dried apricots, dried nectarines, dried pears or other dried fruits not being dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act, whose holdings are situated within the counties of Forbes, Monteagle and Harden in the State of New South Wales.

(d) In Part B of Division II there shall be entered the names of growers of dried prunes, dried peaches, dried apricots, dried nectarines, dried pears or other dried fruits not being dried grapes which are declared by the regulations to be dried fruits for the purposes of this Act, whose holdings are situated within the State of New South Wales elsewhere than within the counties of Forbes, Monteagle and Harden.

(3) (a) If a person possesses the qualifications for enrolment within both Division I and Division II he shall be eligible for enrolment in each of those divisions. Enrolment.

(b)

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(b) If a person possesses the qualifications for enrolment within—

- (i) both Part A and Part B of Division I he shall be eligible to enrolment in only one of those parts;
- (ii) both Part A and Part B of Division II he shall be eligible to enrolment in only one of those parts.

Any such person may by instrument in writing addressed to the Commission elect in which Part he shall be enrolled.

Officers.

**cf. Act No.
13, 1927,
s. 8.**

15. (1) The Governor may, on the recommendation of the board, appoint a secretary and any other officers, inspectors, agents, or servants necessary to enable the board to carry out its duties and functions.

(2) The board may authorise any other persons to act as inspectors or to do such acts and things as it deems necessary for carrying out the provisions of this Act.

(3) The Commission may allow the services of any of its officers, inspectors, and servants to be utilised by the board as secretary to the board and otherwise on such terms and conditions as may be agreed upon between the Commission and the board, and in such case such officers, inspectors and servants shall remain employees of the Commission, and no accrued or accruing rights of such officers, inspectors and servants shall thereby be prejudiced, but shall remain in full force and effect as if their services were not utilised by the board.

**Board may
levy contri-
bution.**

**cf. Act No.
13, 1927,
s. 9.**

16. (1) Towards the cost of defraying the expenditure involved in the administration of this Act, and of carrying out the duties and functions of the board thereunder, or pursuant or incidental thereto, there shall be a contribution by every grower in respect of dried fruits produced by him.

Such contribution shall be on the basis, at the times, and in the manner prescribed, and the rates may vary as prescribed for different varieties of dried fruits.

(2)

(2) In the case of any dried fruits other than those mentioned in subsection one of this section, and which are prepared, stemmed, processed, graded, sorted or packed at any packing shed, there shall be a like contribution by the owner of the dried fruits if the board decides that such contribution shall be made.

(3) The board may at its discretion collect the contribution direct from the grower or the owner of the dried fruits, or on his behalf, from the person who is the owner of the packing shed to which the dried fruits have been delivered.

In the latter case the person who is the owner of the packing shed may reimburse himself out of any moneys payable by him to the grower or owner of the dried fruits and in the event of his not being in possession of any moneys payable to the grower or owner of the dried fruits may recover as a debt from the grower or owner of the dried fruits the amount of the contribution paid by such person who is the owner of the packing shed to the board.

(4) Any contribution unpaid may be recovered by the board as a debt in any court of competent jurisdiction from the grower or owner of the dried fruits or person who is the owner of the packing shed as the board may decide.

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

Board to
keep
accounts.

(2) The accounts of all moneys received and paid as aforesaid shall be audited by the Auditor-General who shall have with respect to such accounts all the powers conferred on him by any law now or hereafter in force relating to the audits of public accounts and the Audit Act, 1902, and Acts amending the same shall apply to the board and its affairs in the same manner as it applies to accounting officers of Public Departments.

(3) The board shall as soon as practicable after the thirtieth day of June in each year furnish to the
Minister

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Minister statements of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the board.

(4) Such statements shall be laid before both Houses of Parliament within fourteen sitting days if Parliament is then in session, or if not, then within fourteen sitting days after the commencement of the next session.

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

(6) Towards defraying the costs and expenses of the audit the board shall pay to the Consolidated Revenue Fund such sums at such periods as the Colonial Treasurer may decide.

General
powers of
board.
cf. Act No.
13, 1927,
s. 12 (1)
(c).

18. The board may in its absolute discretion—

- (a) by means of advertising or any other appropriate means, encourage the consumption of dried fruits, and create a greater demand therefor;
- (b) by appropriate means encourage the development of and generally foster the dried fruits industry.

Further
powers.
cf. *Ibid.*
s. 26A.

19. The board may exercise any such powers as are conferred upon it by or under any Act of Parliament of the Commonwealth of Australia relating to dried fruits.

PART IV.

No. 21, 1933.

PACKING SHEDS, DEALERS, GROWERS AND DEHYDRATORS.

20. (1) Every packing shed shall be registered by the board. Registration of packing sheds.

(2) (a) Application for registration of a packing shed may be made by the person who is the owner of the packing shed. cf. Act No. 13, 1927, s. 17.

(b) Every such application shall be made—

- (i) where the packing shed was registered under the Acts repealed by this Act—not later than the thirty-first day of December next after the commencement of this Act;
- (ii) where the packing shed was before the commencement of this Act engaged in the treatment of dried prunes, dried peaches, dried apricots, dried nectarines or dried pears, and was not registered under the Acts repealed by this Act—not later than six months after such commencement;
- (iii) where the packing shed is a new packing shed—before the treatment of fruit at such packing shed is undertaken.

(3) Every such application shall be made in the prescribed form and shall be accompanied by a statement of the variety or varieties of dried fruits which it is proposed to treat at the packing shed, and by such other particulars as are prescribed.

(4) The board may register a packing shed to treat only the variety or such of the varieties of dried fruits referred to in the statement accompanying the application as are specified in the certificate of registration if in the opinion of the board there are in that part of New South Wales in which the packing shed is situated sufficient packing sheds capable of and available for dealing with the varieties of dried fruits referred to in the statement accompanying the application and not specified in the certificate of registration:

Provided that where, prior to the commencement of this Act, the owner, or any predecessor in title of the owner, of a packing shed in respect of which an application for registration is made, lawfully treated at that packing

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packing shed, or at any packing shed the operations of which have been transferred to that packing shed, the variety or any of the varieties of dried fruits referred to in the statement, the board shall not exclude that variety or those varieties of dried fruits from the variety or varieties of dried fruits specified in the certificate of registration.

(5) The registration of a packing shed shall expire on the thirty-first day of December in the year for which it was effected but may be renewed in the prescribed manner.

(6) The certificate of registration of a packing shed shall state the name of the person upon whose application the packing shed was registered and may in the prescribed manner at any time during its currency be transferred in favour of any other person approved by the board.

Where a certificate of registration of a packing shed is transferred the board shall cause a statement in the prescribed form of the fact and of the name of the person in whose favour it was transferred to be endorsed on the certificate.

The person whose name is stated in a certificate of registration of a packing shed, or, where the certificate of registration has been transferred, in any such endorsement, shall be deemed to be the holder of the certificate of registration.

(7) Every application for registration or for renewal of registration shall be accompanied by a fee of one pound.

Every application for transfer of a certificate of registration shall be accompanied by a fee of five shillings.

(8) In this section "treat" means prepare, stem, process, grade, sort or pack, and "treated" and "treatment" have a corresponding meaning.

**Registration
of new pack-
ing sheds
may be
refused.
cf. Act No.
13, 1927,
s. 19.**

21. (1) The granting of an application for the registration of any new packing shed in any part of New South Wales or of an application to add to the list of dried fruits specified in the certificate of registration of a packing shed may be refused by the board, if, in the opinion of the board, there are in that part of New South Wales

Wales sufficient packing sheds capable of and available for dealing with the dried fruits produced in that part of New South Wales. No. 21, 1933.

(2) For the purposes of this section and of section twenty "new packing shed" means—

Definition
of "new
packing
shed."

- (a) a packing shed not previously registered with the board;
- (b) a packing shed the registration of which has been cancelled;
- (c) a packing shed the registration of which has been allowed to lapse.

(3) An application to add to the list of dried fruits specified in the certificate of registration of a packing shed shall be accompanied by a fee of one pound.

If such application is granted no fee additional to that provided for in subsection seven of section twenty of this Act shall be payable with any application for renewal of registration or transfer of the certificate of registration at a later date of such packing shed.

22. On conviction of the person who is for the time being the holder of a certificate of registration of a packing shed for any offence against the provisions of this Act or of the regulations the court may suspend or cancel the registration of the packing shed.

Power of court
to suspend or
cancel registra-
tion of packing
shed.
cf. Act No. 13,
1927, s. 18.

23. Any person, being the owner of any packing shed not registered as required by this Act, or of which the registration is for the time being suspended, and any person being the owner of a packing shed who is not the holder of the certificate of registration in respect thereof who carries on in such packing shed the business of packing dried fruits or of preparing, stemming, processing, grading or sorting dried fruits shall be guilty of an offence and shall be liable on conviction to a penalty of not more than five hundred pounds and the court may order that the plant and machinery used at such packing shed be forfeited to His Majesty.

Unregistered
packing
sheds pro-
hibited.
cf. *Ibid.*
s. 20.

24. Any grower who delivers dried fruits for the purpose of preparing, stemming, processing, grading, sorting or packing to a packing shed not registered as required by this Act, or of which the registration is for the time being suspended, or of which the owner is not

Dried
fruits not
to be
delivered to
unregistered
packing
sheds.

the

No. 21, 1933.

the holder of the certificate of registration issued in respect thereof, shall be liable to a penalty of not more than one hundred pounds.

Registration
of growers
and
dealers.

cf. Act No.
13, 1927,
s. 13 (1).

25. Every person who—

- (a) at the commencement of this Act is a grower and is still engaged as a grower; or
- (b) becomes a grower after such commencement; or
- (c) at the commencement of this Act is a dealer; or
- (d) becomes a dealer after such commencement;

shall register with the board as prescribed.

Unregistered
growers
and
dealers.
cf. *Ibid.*
s. 14.

26. Any person who without being registered engages as a grower or dealer shall be liable to a penalty not exceeding one hundred pounds: Provided that a person shall not be prosecuted for a contravention of this section occurring within one month from the date when he commences to so act as a grower or dealer if he applies to be registered as such within that period.

Registration
of
dehydrators.

27. (1) Every dehydrator used for the dehydration of dried fruits shall be registered with the board by the person who is the owner thereof.

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

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

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

(5) Every person who is the owner of a dehydrator required by this section to be registered who does not register the same pursuant to this Act shall be liable to a penalty not exceeding one hundred pounds.

Returns
by pack-
ing sheds.
cf. *Ibid.*
s. 25 (2).

28. (1) The chairman of the board may at any time, by notice in writing given to the person in whose name any packing shed is registered, require such person to furnish to the board in the prescribed form and in respect of

of the prescribed periods and at the times specified in the notice given to him by the chairman, the particulars with respect to the dried fruits which are at the time or have previously been or are likely to be in such packing shed for the purpose of being prepared, stemmed, processed, graded, sorted or packed which are specified in such notice.

No. 21, 1933.

(2) The chairman of the board may at any time by notice in writing given to the person in whose name a packing shed is registered, require such person to supply to the board, within the time to be specified in the notice, particulars on the prescribed form of the name and address of each grower or owner from whom, or on whose behalf, dried fruits have been received at the packing shed for preparing, stemming, processing, grading, sorting or packing, and of the quantity of each class of dried fruits received at the packing shed from, or on behalf of, each grower or owner, during any period specified by the chairman of the board in the notice before referred to.

29. The chairman of the board may at any time by notice in writing, given to a person who is the owner of a winery or distillery, require him to furnish in writing to the board within the time to be specified in the notice, any particulars which may be required with respect to dried fruits which are at the time, or have previously been or are likely to be in or at such winery or distillery, for use for manufacturing purposes or for sale.

Returns by
wineries or
distilleries.

30. The chairman of the board may at any time, by notice in writing given to any dealer, require him to furnish in writing to the board within a time to be specified in the notice the prescribed particulars with respect to dried fruits which are at the time, or have previously been, or are likely to be owned by him or under his control or at his disposal, during any period to be specified by the chairman in such notice.

Returns by
dealers.
cf. Act
No. 13, 1927,
s. 25 (1).

31. The chairman of the board may at any time, by notice in writing given to a grower, require him to furnish in writing to the board within the time to be specified in the notice, any particulars which may be required with respect to dried fruits produced or likely to be produced by him during any period to be specified by the chairman in such notice.

Returns by
growers.
cf. *Ibid.*
s. 25 (2A).

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Returns
of dried
fruits.

cf. Act No.
13, 1927,
s. 23.

32. (1) The chairman of the board may by notice published in the Gazette and in a newspaper circulating in the locality require all or any persons having within the locality therein mentioned any dried fruits owned by them or in their disposal or under their control to make returns of such dried fruits.

(2) Such returns shall be in the prescribed form and shall contain the prescribed particulars, and shall be made to the board within the time to be specified in such notice.

(3) Any person to whom such notice applies who fails to comply with any requirement of this section or supplies false information shall be liable to a penalty not exceeding one hundred pounds.

Returns by
owners of
dehydrators.

33. The chairman of the board may at any time by notice in writing given to a person who is the owner of a dehydrator used for the dehydration of dried fruits require him to furnish in writing to the board within the time specified in the notice, any particulars which may be required with respect to dried fruits which are at the time, or have previously been or are likely to be dehydrated by such dehydrator during any period to be specified by the chairman in such notice.

Notices in
connection
with the
supply of
returns.

34. (1) Any notice required to be given to any person for the purposes of sections twenty-eight, twenty-nine, thirty, thirty-one and thirty-three of this Act may be served personally or sent by post addressed to such person at his usual or last known place of business or abode.

Penalty
for not
supplying
returns.

(2) Any person who fails to comply with the requirement of any notice given under section twenty-eight, section twenty-nine, section thirty, section thirty-one or section thirty-three of this Act or supplies false information shall be liable to a penalty not exceeding five hundred pounds.

PART V.

No. 21, 1933.

MARKETING OF DRIED FRUITS IN NEW SOUTH WALES.

35. The Minister upon the recommendation of the board may from time to time by public notice determine the maximum proportion of any variety of dried fruits produced in New South Wales in any season which may be marketed within the State of New South Wales other than by way of sale to wineries and distilleries situated in New South Wales and the board in accordance with any such determination may specify in the case of any registered packing shed the proportion of any such dried fruits which may be so marketed from such packing shed, and shall send by registered letter post to the person in whose name such packing shed is registered at his address as registered a letter containing particulars of such determination and specification and every such person who is guilty of any contravention of or failure to comply with any such determination or specification shall be liable to a penalty of not more than fifty pounds per ton for each ton of dried fruits marketed in New South Wales other than by way of sale to wineries or distilleries situated in New South Wales in excess of the maximum proportion determined by the Minister.

Determina-
tions by
the
Minister.

“ Season ” for the purpose of this section means—

- (a) in the case of dried currants, dried sultanas, dried lexias, dried doradillos, dried muscates, dried prunes, dried peaches or dried pears, the calendar year, and
- (b) in the case of dried apricots, or dried nectarines, the period commencing on the first day of November in any year and ending on the thirty-first day of October in the succeeding year, and
- (c) in the case of dried fruits which may be declared by regulation to be dried fruits for the purposes of this Act, such period as is prescribed.

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PART VI.

MISCELLANEOUS.

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

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

- (a) packs any dried fruits in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark fixed for dried fruits of the quality packed in the particular package;
- (b) has in his possession any dried fruits contained in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark fixed for dried fruits of the quality contained in the particular package; or
- (c) by the use of any description or mark on a package containing dried fruits represents such fruits to be of a particular standard, whereas in fact such fruits are not of that standard.

(2) Where it is made to appear to the satisfaction of any inspector or officer of the board, 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.

Indemnity.
cf. Act
No. 13, 1927,
s. 24.

37. No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever

whomsoever against His Majesty or the Minister or the Commission or the board or any member thereof or any officer or person acting in the execution of this Act or of the regulations made thereunder for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of the passing of this Act or of its operation or of anything done or purporting to be done under this Act or the regulations made thereunder, save only for the value of any dried fruits purchased or acquired under this Act.

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38. Except under such conditions as are prescribed buck currants shall not be—

Buck
currants.

- (a) bought or sold;
- (b) removed from a packing shed for the purpose of purchase or sale.

39. (1) Any person contravening or failing to comply with any of the provisions of this Act shall, where no other penalty is expressly provided, be liable on conviction to a penalty not exceeding five hundred pounds.

Penalties.
cf. Act No.
13, 1927,
s. 30.

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

(3) Proceedings for the contravention of or failure to comply with any of the provisions of this Act or of the regulations may, notwithstanding the provisions of any other Act to the contrary, be commenced at any time within twelve months from the time of the commission of the offence.

Proceedings.

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

Regulations.

- (a) the sale, purchase or marketing or the arranging for the sale, purchase or marketing of dried fruits;

(b)

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- (b) the branding, marking or labelling of packages containing dried fruits;
- (c) the fixing of standards for different grades of dried fruits and the grade description or grade mark for each grade;
- (d) the limiting and controlling of selling and agency charges for the sale and distribution of dried fruits;
- (e) the manner of effecting the renewal of the registration of packing sheds and dehydrators and the transfer of the certificate of registration of a packing shed or of the registration of a dehydrator and the particulars to be furnished to the board by the applicants for registration;
- (f) the situation, construction, operation, maintenance, and cleansing of packing sheds;
- (g) the inspection and regulation of packing sheds and stores and the conditions under which packing sheds and stores shall be conducted and the inspection and regulation of machinery, appliances, implements, sweat boxes and utensils used in connection therewith;
- (h) the conditions and times under and at which fruit may be received, prepared, stemmed, processed, graded, sorted, packed, or stored at packing sheds;
- (i) the delivery to and removal from packing sheds of dried fruits;
- (j) the keeping and inspection of records and statistics of dried fruits received at and delivered from packing sheds;
- (k) the accommodation for inspectors to be provided within packing sheds;
- (l) the cleanliness and freedom from disease or disease carrying of persons engaged in the production, drying, manufacture, preparation, handling, stemming, processing, grading, sorting, packing, storage, carriage, delivery or removal of dried fruits;

(m)

- (m) the class, construction and condition of the packages in which dried fruits shall be packed, the condition and grade of packed dried fruits and the methods of packing dried fruits;
- (n) the inspection and regulation of drying grounds and drying racks whereon dried fruits are dried, and of premises, sweat boxes, picking tins, picking boxes, trays, bags, hessians, dips, dip-tins, sulphur chambers, and any other appurtenances, machinery, appliances, utensils, materials, implements and articles used in connection with the drying of fruits;
- (o) the methods of drying and the conditions under which fruits are dried, including the classes and types of dips to be used in connection with the drying of fruits and the materials and ingredients to be included in such dips;
- (p) the situation, maintenance and cleansing of dehydrators; and the inspection and regulation of dehydrators and the conditions under which dehydrators shall be conducted and operated;
- (q) the conditions under which and the manner and methods in which dried fruits are to be packed in a package;
- (r) admixtures of dried fruits in any one package;
- (s) the issue of receipt and release notes for dried fruits received at and released from a packing shed;
- (t) the prevention and control of diseases in dried fruits and the prevention of the contamination thereof by insect pests or foreign substances;
- (u) the hygienic treatment of dried fruits;
- (v) the moisture contents, caused by added water, of dried fruits;
- (w) the inspection of and determinations as to grade, freedom from disease, and freedom from foreign substance, of dried fruits;
- (x) the powers, rights, duties and responsibilities of inspectors and the responsibilities of other persons in relation thereto;

(y)

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- (y) the inspection of dried fruits by inspectors in packing sheds, dehydrators, stores, warehouses, bonds, shops, or bakeries, on farms, drying grounds, drying racks, railway premises or wharves, in vehicles, railway trucks or boats, or at any other place whatsoever, and the facilities necessary to enable inspectors to make such inspections and keep records of same and obtain samples of the fruit inspected;
- (z) the detention of dried fruits by inspectors or other persons authorised by the board;
- (aa) the amount of drawback fruit to be issued, the packing and sale of drawback fruit, and the branding of packages containing same;
- (bb) the custody of the common seal of the board, the use of such seal, and the sealing of contracts, documents and plans therewith;
- (cc) forms to be used under this Act.

(2) Any such regulation may prescribe a penalty not exceeding one hundred pounds for any breach thereof.

(3) Such regulations shall—

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

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

LOAN