

EGG INDUSTRY STABILISATION ACT.

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 74, 1971.

An Act to provide for the stabilisation of the egg industry; to provide for the constitution of a Poultry Farmer Licensing Committee and to define its powers, authorities, duties and functions; to provide for the taking of polls of poultry farmers prior to the formation and dissolution of the Licensing Committee; to provide for the licensing of poultry farmers; to provide for the imposition of quotas on the keeping of hens by licensed poultry farmers; to provide for the constitution of a Review Committee to review base quotas; and for purposes connected therewith. [Assented to, 21st December, 1971.]

BE

No. 74, 1971

BE it enacted by the Queen'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:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Egg Industry Stabilisation Act, 1971".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
into Parts.

2. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—POLLS OF POULTRY FARMERS—ss. 5–7.

PART III.—CONSTITUTION OF THE LICENSING COMMITTEE—ss. 8–10.

PART IV.—INSPECTION—ss. 11–14.

PART V.—LICENSING OF POULTRY FARMERS.

DIVISION 1.—*Categories of Poultry Farmers*—s. 15.

DIVISION 2.—*Licenses*—ss. 16–22.

DIVISION 3.—*Determination of Base Quotas of Poultry Farmers*—ss. 23–26.

DIVISION 4.—*Hen Quotas and State Hen Quota*—ss. 27–30.

PART VI.—REVIEW COMMITTEE.

DIVISION 1.—*Constitution and Powers of Review Committee*—ss. 31–37.

DIVISION 2.—*Review of Base Quotas*—ss. 38–44.

PART

*Egg Industry Stabilisation.***PART VII.—SURRENDER AND RE-ISSUE OF LICENSES No. 74, 1971**
—ss. 45–47.**PART VIII.—PERMITS TO KEEP HENS FOR BREEDING**
PURPOSES—s. 48.**PART IX.—MISCELLANEOUS—ss. 49–62.**

3. (1) In this Act, except in so far as the context or Interpretation. subject-matter otherwise indicates or requires—

“base quota” in relation to a poultry farmer means—

- (a) the base quota for that poultry farmer calculated in accordance with section twenty-three, or determined under section twenty-four, of this Act, as the case may require, as increased by the Review Committee, if such be the case;
- (b) a base quota allotted to that poultry farmer under section fifty-one of this Act; or
- (c) where that poultry farmer is a licensee under section forty-five of this Act—the base quota for that poultry farmer calculated in accordance with section forty-seven of this Act;

“Board” means The Egg Marketing Board for New South Wales constituted under the Marketing of Primary Products Act, 1927;

“broiler breeder hen” means a female domesticated fowl of the genus *gallus* which is not—

- (a) a white leghorn;
- (b) an Australorp, a New Hampshire, a Rhode Island red or a langshan;

(c)

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(c) a cross between a white leghorn and a breed referred to in paragraph (b) of this definition; or

(d) a hen of a class specified in an order under subsection two of this section that has taken effect under subsection three of this section,

being a fowl used for the purpose of producing broiler chickens;

“broiler chicken” means a chicken intended to be used otherwise than for the purpose of producing eggs;

“Commonwealth Levy Act” means the Poultry Industry Levy Act 1965 of the Parliament of the Commonwealth and includes any Act amending or replacing that Act;

“Commonwealth Levy Collection Act” means the Poultry Industry Levy Collection Act 1965 of the Parliament of the Commonwealth and includes any Act amending or replacing that Act;

“first licensing season” means the period of one year that commences on a day to be appointed by the Minister and notified by publication in the Gazette as the day on which the first licensing season commences;

“hen” means a female domesticated fowl of the genus *gallus* that is not less than six months old;

“hen quota” in relation to a poultry farmer and a licensing season means—

(a) where that licensing season is the first licensing season—the number calculated in accordance with section twenty-eight or twenty-nine of this Act, as the case may require, in respect of that poultry farmer;

(b)

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(b) where that licensing season is not the first licensing season and no variation in hen quotas has been made under section thirty of this Act in any preceding licensing season—the number referred to in paragraph (a) of this definition;

(c) where that licensing season is a licensing season to which a notification under subsection four of section thirty of this Act relates—the number to which the previous hen quota of that poultry farmer is varied under that section for that licensing season;

(d) where that licensing season is a licensing season that succeeds a licensing season referred to in paragraph (c) of this definition and is not itself a licensing season so referred to—the hen quota last notified to that poultry farmer under subsection four of section thirty of this Act; or

(e) where that poultry farmer is a licensee under section forty-five of this Act—the hen quota for that poultry farmer calculated in accordance with section forty-seven of this Act in respect of the license, or the later or latest of the licenses, issued to him under that section;

“inspector” means an inspector authorised pursuant to section eleven of this Act;

“license” means a license issued under this Act;

“licensee” means the holder of a license;

“Licensing Committee” means the Poultry Farmer Licensing Committee constituted under section eight of this Act;

“licensing season” means the first licensing season and each succeeding period of one year;

“poultry

No. 74, 1971**“poultry farmer”** means a person—

- (a) who submitted, or on whose behalf there was submitted, in respect of hens kept by him in New South Wales at least ten notices in writing pursuant to Regulation four of the regulations made under the Commonwealth Levy Collection Act;
- (b) who was liable to pay an amount of levy imposed by the Commonwealth Levy Act; and
- (c) who paid all such amounts for which he was liable,

during the period of six months next preceding the day on which this Act received the Royal assent;

“pullet” means a hen that is less than six months old;

“relevant period” means the period of one year that ended immediately before the twenty-seventh day of November, one thousand nine hundred and seventy;

“Review Committee” means the Review Committee constituted under section thirty-two of this Act;

“State Hen Quota” in relation to a licensing season means the number of hens determined by the Governor pursuant to section twenty-seven of this Act as the State Hen Quota for that licensing season;

“this Act” includes the regulations made under this Act.

(2) The Governor may, by order published in the Gazette, declare that hens of a specified class are not broiler breeder hens for the purposes of this Act.

(3) An order published under subsection two of this section, and any alteration or variation of such an order, does not take effect until the expiration of three months after its publication.

(4)

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(4) In this Act, a reference to the place to which a No. 74, 1971 license relates includes a reference to all places to which the license relates, whether or not they are contiguous.

4. (1) Where on any prescribed day as defined by the Exemption Commonwealth Levy Act a person is not liable to pay levy under that Act, and this Act would, but for this subsection, apply to and in respect of that person during the period between that prescribed day and the next succeeding prescribed day so defined, this Act does not apply to or in respect of that person during that period.

(2) The Minister may, by order published in the Gazette, exempt from the operation of all of the provisions of this Act, or any of the provisions of this Act specified in the order—

- (a) a specified educational institution or a specified class of educational institutions;
- (b) a specified organisation or association registered under the Charitable Collections Act, 1934, or a specified class of organisations or associations so registered.

(3) An order under subsection two of this section takes effect on the day on which the order is published in the Gazette or, where a later day is specified in the order, on that later day.

(4) An order under this section has effect subject to such conditions as are specified in the order.

(5) For the purposes of subsection two of this section a class may be defined by reference to such circumstances or factors as the Minister thinks fit.

(6)

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(6) If a person to whom an order under this section relates fails to comply with or contravenes any condition subject to which the order was made, the Minister may by order published in the Gazette amend the order by excluding that person from its operation.

PART II.

POLLS OF POULTRY FARMERS.

**Interpreta-
tion.**

5. For the purposes of a poll taken under this Part "prescribed person" means a person who would be entitled to vote at the poll if it were a poll taken under section five of the Marketing of Primary Products Act, 1927, among producers of eggs.

Polls.

6. (1) A poll for the purposes of this Act is a poll taken, as prescribed, among prescribed persons.

(2) A poll for the purposes of this Act—

(a) shall be taken, where the question to be decided is whether the Licensing Committee should be constituted, only at the request, by petition to the Governor, of not less than one hundred persons certified by the Board to be prescribed persons;

(b) shall be taken, where the question to be decided is whether the Licensing Committee should be dissolved, only at the request, by petition to the Governor lodged not earlier than five years after the constitution of the Licensing Committee, of not less than one hundred persons certified by the Board to be prescribed persons;

(c)

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- (c) shall be taken on a day notified by the Governor No. 74, 1971 for the purpose by proclamation published in the Gazette, being a day not earlier than thirty days after publication of the proclamation or, where the Governor by a subsequent proclamation so published notifies a later day for the purpose, on that later day;
- (d) shall be deemed not to be in favour of the question to be decided at the poll unless—
 - (i) not less than three-fifths of the persons required to vote at the poll have so voted; and
 - (ii) a majority of the votes at the poll is in favour of the question; and
- (e) shall not, where the poll is required to be taken by a person other than the Board, be taken unless the Board has first made provision, as prescribed, for the costs and expenses of the poll.

7. (1) For the purposes of a poll, the Board shall cause List of a list to be compiled, as prescribed, of prescribed persons. poultry farmers.

(2) Where a person has applied as prescribed for inclusion in the list referred to in subsection one of this section and the name of that person is not included in the list, that person may apply as prescribed to a court of petty sessions held before a stipendiary magistrate for an order that his name be included in that list.

(3) A court to which application is made under subsection two of this section shall have jurisdiction to hear and determine the matter of the application and may—

- (a) order that the name of the applicant be included in the list compiled under subsection one of this section; or
- (b) dismiss the application,

and

No. 74, 1971 and upon any order being made under paragraph (a) of this subsection, the Board shall include the name of the applicant in that list.

(4) Where the name of a person appears on the list compiled under subsection one of this section for a poll and that person fails to vote at the poll, he is liable to a penalty not exceeding four dollars.

(5) Where the name of a person does not appear on the list compiled under subsection one of this section for a poll and he votes at the poll, he is guilty of an offence against this Act.

PART III.

CONSTITUTION OF THE LICENSING COMMITTEE.

Constitution of Poultry Farmer Licensing Committee. 8. (1) Subject to a poll being taken and being in favour of the Poultry Farmer Licensing Committee being constituted, the Governor may, by proclamation published in the Gazette, appoint a day for the constitution of the Poultry Farmer Licensing Committee and, on that day, the Poultry Farmer Licensing Committee shall be deemed to have been constituted in accordance with this Part.

(2) The Licensing Committee shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(3) In the exercise and discharge of its powers (other than powers in respect of the exercise of which an appeal lies to the Minister), authorities, duties and functions the Licensing Committee shall be subject in all respects to the control and direction of the Minister.

(4)

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(4) The Licensing Committee may, by arrangement No. 74, 1971 with the Board, make use of officers and servants of the Board for the purpose of exercising and discharging its powers, authorities, duties and functions under this Act.

(5) The Licensing Committee shall consist of the persons for the time being holding office as members of the Board.

(6) Each member of the Licensing Committee who is not an officer of the Public Service shall receive such remuneration, and each member of the Licensing Committee shall receive such allowances, as the Licensing Committee from time to time determines and the Minister approves.

(7) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member of the Licensing Committee.

(8) The office of a member of the Licensing Committee is not for the purposes of any Act an office or place of profit under the Crown.

(9) A member of the Licensing Committee is not, in his capacity as such a member, subject to the provisions of the Public Service Act, 1902.

9. (1) The procedure for the calling of meetings of the Proceedings, etc., of Licensing Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Committee.

(2)

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(2) The members of the Licensing Committee present at the first meeting of the Licensing Committee shall elect a member to be Chairman and, where he, or any succeeding Chairman, ceases to be a member of the Licensing Committee or resigns his office as Chairman, the members of the Licensing Committee shall elect some other member to be Chairman.

(3) The Chairman, or in the absence of the Chairman, a member chosen by the members present at the meeting to act as Chairman, shall preside at any meeting of the Licensing Committee.

(4) A majority of the members of the Licensing Committee for the time being shall form a quorum and any duly convened meeting of the Licensing Committee at which a quorum is present shall be competent to transact any business of the Licensing Committee and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Licensing Committee.

(5) The Chairman or member acting as Chairman at any meeting of the Licensing Committee shall, in the event of an equality of votes, have a second or casting vote in addition to a deliberative vote.

(6) A decision of the majority of the members present at a meeting of the Licensing Committee shall be the decision of the Licensing Committee.

(7) The Licensing Committee shall cause full and accurate minutes to be kept of its proceedings at meetings and shall submit to the Minister a copy of the minutes of each meeting within two weeks after the day on which it is held.

(8) An act or proceeding of the Licensing Committee is not invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of a member of the Committee.

(9)

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(9) No matter or thing done, and no contract entered into by the Licensing Committee, and no matter or thing done by any member or by any other person acting under the direction of the Licensing Committee shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(10) The Licensing Committee does not, for any purpose, represent the Crown.

10. (1) Where—

(a) a poll is taken pursuant to Part II of this Act and is in favour of the dissolution of the Licensing Committee; or

(b) a poll is taken pursuant to the Marketing of Primary Products Act, 1927, and is in favour of the dissolution of the Board,

Dissolution
of Licens-
ing Commit-
tee, etc.

the Licensing Committee shall on and from a day appointed by the Governor for the purpose by proclamation published in the Gazette, being a day that is not later than six months after the taking of the poll, proceed to wind up its affairs unless by the same or a subsequent proclamation, the Governor appoints a person to be liquidator to wind up the affairs of the Licensing Committee.

(2) Where the Licensing Committee is to be dissolved pursuant to paragraph (b) of subsection one of this section and the Board is dissolved before the winding up of the Licensing Committee is completed, the members of the Board holding office immediately before its dissolution shall continue in office as members of the Licensing Committee until the Licensing Committee is dissolved.

(3)

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(3) Upon the appointment of a liquidator under subsection one of this section, the members of the Licensing Committee shall cease to act as such members and the liquidator may, for the purpose of winding up the affairs of the Licensing Committee, in the name and as the act of the Licensing Committee—

- (a) exercise and perform such of the powers, authorities, duties and functions of the Licensing Committee;
- (b) bring and defend such proceedings; and
- (c) do and execute such other acts and things,

as he thinks fit.

(4) A liquidator appointed under subsection one of this section shall receive such remuneration as the Governor determines.

(5) The Governor may, at any time after the day appointed under subsection one of this section, declare by proclamation published in the Gazette that the Licensing Committee is dissolved and thereupon—

- (a) the members of the Licensing Committee shall cease to hold office as such and the dissolution of the Licensing Committee shall be deemed to have been effected; and
- (b) this Act shall cease to have any force or effect.

PART IV.

INSPECTION.

Appointment of inspectors. 11. (1) The Board may authorise an officer or servant of the Board to be an inspector for the purposes of this Act and any person so authorised shall be such an inspector.

(2)

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(2) An inspector shall be provided by the Board No. 74, 1971 with a certificate of identification in the prescribed form.

12. (1) An inspector shall have and may exercise and Powers of inspectors. perform all the powers, authorities, duties and functions conferred or imposed on him by or under this Act and, without affecting the generality of the foregoing, may, subject to this section—

- (a) enter and remain in or on any land, premises, place or vehicle which is, or which he believes on reasonable grounds is—
 - (i) being used for or in connection with the operations of a poultry farm or chicken hatchery;
 - (ii) being used as a poultry farm or chicken hatchery; or
 - (iii) being used for the storage or custody of any accounts, records, books, documents or any other things whatsoever relating to the operations of a poultry farm or chicken hatchery;
- (b) search and inspect any such land, premises, place or vehicle for the presence of, examine and count, any hen, pullet or broiler breeder hen, accounts, records, books, documents, goods, packages, parcels or other things found therein or thereon relating to the operations of a poultry farm or chicken hatchery;
- (c) take copies of, or extracts or notes from, any such accounts, records, books, documents or other things; or
- (d) require any person found in or on any such land, premises, place or vehicle to produce any such accounts, records, books, documents, goods, packages,

packages.

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packages, parcels or other things in the possession or under the control of that person which relate to, or which the inspector believes on reasonable grounds to relate to, the operations of a poultry farm or chicken hatchery.

(2) An inspector in exercising or performing in or on any land, premises, place or vehicle any power, authority, duty or function under this Act shall, if so required by a person apparently in charge of that land, premises, place or vehicle, produce his certificate of identification to that person.

(3) Where a part of premises is used for residential purposes, an inspector is not, without the permission of the occupier of that part of those premises, authorised by this section to enter in or on, or to search or inspect, that part of those premises and paragraph (d) of subsection one of this section does not apply to a person in or on those premises.

(4) A person who—

(a) delays, obstructs, hinders or impedes an inspector in the exercise or performance of his powers, authorities, duties or functions under this Act; or

(b) fails to comply with any requirement made under paragraph (d) of subsection one of this section,

is guilty of an offence against this Act.

Demanding
name and
place of
abode.

13. (1) An inspector who finds a person committing an offence against this Act or who finds a person whom, on reasonable grounds, he suspects of having committed or attempted to commit any such offence, may demand from that person his name and place of abode.

(2)

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(2) A person who upon demand made under sub- No. 74, 1971 section one of this section—

- (a) fails or refuses to state his name or place of abode; or
- (b) states a name that is not his name or a place of abode that is not his place of abode,

is guilty of an offence against this Act.

14. A person who—

Personation
of
inspector.

- (a) forges or counterfeits any written evidence of appointment of an inspector;
- (b) makes use of any forged, counterfeited or false written evidence of such an appointment;
- (c) personates an inspector; or
- (d) falsely pretends to be such an inspector,

is guilty of an offence against this Act.

PART V.

LICENSING OF POULTRY FARMERS.

DIVISION 1.—*Categories of Poultry Farmers.*

15. For the purposes of this Act—

Categories
of poultry
farmers.

- (a) a Group I poultry farmer is a poultry farmer who, alone or as a partner—
 - (i) during the period of one year next preceding the day on which this Act received the Royal assent, submitted in respect of hens

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hens kept by him in New South Wales at least twenty notices in writing pursuant to Regulation four of the regulations made under the Commonwealth Levy Collection Act; and

- (ii) during the relevant period was liable to pay an amount of levy imposed by the Commonwealth Levy Act and paid all such amounts for which he was liable during that period;
- (b) a Group II poultry farmer is a poultry farmer who is not a Group I poultry farmer.

DIVISION 2.—*Licenses.*

Offences relating to keeping of hens.

16. (1) A person who, during a licensing season, keeps hens without being the holder of a license is guilty of an offence against this Act unless the hens are broiler breeder hens.

(2) A licensee who, during a licensing season, keeps hens otherwise than in accordance with the conditions or restrictions to which his license is subject is guilty of an offence against this Act unless the hens are kept in accordance with a permit issued under Part VIII of this Act.

(3) A licensee who, during a licensing season, keeps hens at a place other than the place to which his license relates is guilty of an offence against this Act unless the hens are broiler breeder hens or are kept in accordance with a permit issued under Part VIII of this Act.

(4) The penalty for an offence against this Act referred to in this section is a penalty not exceeding five hundred dollars and, in addition, a penalty not exceeding one hundred dollars for every day during which the offence continues.

17. (1) Where a poultry farmer applies to the Licensing No. 74, 1971 Committee in a form approved by the Minister for the purposes of this section and forwards with the application the prescribed annual fee for a license, the Licensing Committee

~~Licenses.~~

shall issue to the applicant a license in the prescribed form subject to such conditions and restrictions as are prescribed or as are notified by the Licensing Committee when issuing the license.

(2) An application under subsection one of this section may be made on behalf of a partnership of which the applicant is a member and, where such an application is made, the license may be issued in the name of the partnership or in the names of the members of the partnership.

(3) Where a license is issued under subsection two of this section, each member of the partnership to which the license relates shall be deemed to be a licensee in respect of the licensed place to which the license relates.

(4) A license shall not be issued in respect of a place that is, or a part of which is, a place to which another license relates.

(5) The Minister may, by notification published in the Gazette, fix a day as the last day on which applications may be made for a license under this section.

(6) The Licensing Committee shall not receive an application for a license under this section after the day fixed pursuant to subsection five of this section unless the Minister, in special circumstances, directs it so to do.

(7) A license continues in force until it is cancelled or surrendered.

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Conditions
and
restrictions
relating to
licenses.

18. (1) A license shall contain a description of the place to which it relates and shall specify that the conditions to which it is subject include—

- (a) a condition that during a licensing season, the licensee will not keep, or permit to be kept, at that place—
 - (i) hens that exceed in number the hen quota of the licensee for that licensing season; or
 - (ii) broiler breeder hens,
 except in accordance with a permit issued under Part VIII of this Act; and
- (b) any other prescribed conditions.

(2) For the purposes of subparagraph (i) of paragraph (a) of subsection one of this section, where a license is held by a partnership, the number of hens that a member of the partnership keeps or permits to be kept at a place to which the license relates shall be deemed to be the number of hens that bears to the total number of hens kept at that place (excluding hens kept in accordance with a permit under Part VIII of this Act) the same proportion as his share of the profits of the partnership bears to the total profits of the partnership.

Annual
license
fee.

19. A licensee shall, at or before the commencement of each licensing season (other than the licensing season that next follows the issue of his license where it is issued under section seventeen of this Act) pay to the Licensing Committee the prescribed annual fee for the license.

Variation
of con-
ditions,
etc., in
license.

20. The Licensing Committee may vary or revoke a condition (other than a prescribed condition) or restriction to which a license is subject, or impose further such conditions or restrictions, but, except to the extent that the licensee otherwise requests and the Licensing Committee approves, such a condition or restriction has no force or effect until the expiration of a period of six months after the Licensing Committee notifies the licensee of the variation or imposition of the condition or restriction.

21.

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21. (1) The Licensing Committee may cancel a No. 74, 1971 license—

- (a) if the prescribed annual fee for the license is not paid in accordance with this Act; Cancellation of licenses.
- (b) for a breach of a condition or restriction to which the license is subject;
- (c) if the licensee has been convicted of an offence against this Act; or
- (d) at the request of the licensee.

(2) The cancellation of a license under paragraph (a), (b) or (c) of subsection one of this section remains in abeyance until—

- (a) the expiration of the time for lodging an appeal against the cancellation; or
- (b) where such an appeal is duly lodged, until the giving of the decision on the appeal,

and does not take effect if an appeal is duly lodged and is upheld or if the Minister substitutes some other decision for the decision to cancel the license.

22. (1) Subject to this section, where the Licensing Committee cancels a license pursuant to paragraph (a), (b) or (c) of subsection one of section twenty-one of this Act or notifies a licensee of the imposition by the Licensing Committee of a condition or restriction in respect of his license or the variation of such a condition or restriction, the licensee may, within the prescribed time and in the prescribed manner, appeal to the Minister against the cancellation, imposition or variation. Appeals.

(2) On an appeal under subsection one of this section the Minister may uphold the appeal or confirm the decision of the Licensing Committee or may substitute for the decision appealed against a decision that the Licensing Committee is empowered to make and—

- (a) any such substituted decision shall be deemed always to have been the decision of the Licensing Committee in lieu of the decision for which it is substituted; and
- (b)

No. 74, 1971 (b) subsection one of this section does not apply to or in respect of any such substituted decision.

(3) The regulations may provide for the lodging of a deposit by an appellant under subsection one of this section and for its forfeiture to the Licensing Committee where the Minister, in giving his decision on the appeal, specifies that, in his opinion, the appeal was vexatious or frivolous.

DIVISION 3.—*Determination of Base Quotas of Poultry Farmers.*

Base quota of Group I poultry farmer.

23. (1) In this section “return” means the notice in writing required to be submitted pursuant to Regulation four of the regulations made under the Commonwealth Levy Collection Act.

(2) The base quota for a Group I poultry farmer is the number that is equal to the highest value of “x” obtained by applying the appropriate formula referred to in subsection three of this section in respect of returns duly submitted to the Board during the relevant period by or on behalf of the poultry farmer or a partnership of which he was a member, being returns in respect of which the value of “b” in the formula exceeds the value of “c”.

(3) For the purposes of subsection two of this section—

(a) the formula, in the case of a return submitted by or on behalf of the poultry farmer on his own account is—

$$x = b - c$$

(b) the formula, in the case of a return submitted by or on behalf of a partnership of which the poultry farmer was a member at the time of submission of the return is—

$$x = a(b - c)$$

where—

where—

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- “a” represents the proportion, expressed as a fraction, of the profits of the partnership to which the poultry farmer is entitled;
- “b” represents the number specified in the return pursuant to paragraph (a) of Regulation four of the regulations made under the Commonwealth Levy Collection Act;
- “c” represents the number specified in the return pursuant to subparagraph (i) of paragraph (b) of that Regulation.

24. (1) The base quota to which a Group II poultry farmer is entitled is a number determined by the Licensing Committee in respect of that poultry farmer. Base quota of Group II poultry farmer.

(2) In making a determination under subsection one of this section, the Licensing Committee shall have regard to—

- (a) the number of pullets, if any, owned by that poultry farmer during the last six months of the relevant period;
- (b) the number of hens owned by that poultry farmer during the period which commenced at the expiration of the relevant period and ended on the day on which this Act received the Royal assent; and
- (c) the capital investment of the poultry farmer, during the period referred to in paragraph (b) of this subsection, in plant and equipment which, in the opinion of the Licensing Committee, was necessary for him to operate effectively as a poultry farmer.

25. The Licensing Committee shall make determinations of base quotas of Group II poultry farmers pursuant to section twenty-four of this Act so that the total of all base quotas so determined does not exceed a number determined by the Minister and notified by him to the Licensing Committee. Limit on base quotas of Group II poultry farmers.

No. 74, 1971 **26.** The Licensing Committee shall notify an applicant for a license of his base quota no later than the time of issue to him of the license.

Notifica-
tion of
base quotas
to poultry
farmers.

DIVISION 4.—*Hen Quotas and State Hen Quota.*

State Hen
Quota. **27.** For the purposes of this Act, the number of hens that constitutes the State Hen Quota is the number notified by the Governor, by order published in the Gazette, as the State Hen Quota.

Calculation
of hen
quotas. **28.** (1) Subject to section twenty-nine of this Act, the hen quota of a Group I or Group II poultry farmer in respect of the first licensing season shall be calculated in accordance with the formula—

$$a = \frac{bd}{c}$$

where—

“a” represents the number of hens that is the hen quota of the poultry farmer;

“b” represents the State Hen Quota for the first licensing season reduced by the number referred to in subsection two of this section;

“c” represents the total of all base quotas to which applicants for licenses are entitled under this Act;

“d” represents the base quota of the poultry farmer.

(2) The Minister shall, by order published in the Gazette, specify a number by which the State Hen Quota is to be reduced to give the value of “b” for the purposes of subsection one of this section, being such a number as, having regard to the operation of section twenty-nine of this Act would, in his opinion, ensure that the total of all hen quotas for the first licensing season does not exceed the State Hen Quota for that licensing season.

(3)

Egg Industry Stabilisation.

(3) The Licensing Committee shall notify an applicant for a license of his hen quota no later than the time of issue to him of the license.

29. (1) Where the base quota of a Group I poultry farmer is one thousand or less and his hen quota for the first licensing season would, but for this subsection, be less than his base quota, his hen quota for the first licensing season shall be the same as his base quota.

(2) Where the base quota of a Group I poultry farmer is more than one thousand and his hen quota for the first licensing season would, but for this subsection be less than one thousand, his hen quota for the first licensing season shall be one thousand.

30. (1) Where the State Hen Quota is varied, the Licensing Committee shall prepare in writing a scheme for the variation of all hen quotas, being a scheme whereby—

- (a) the aggregate of all hen quotas does not exceed the State Hen Quota;
- (b) as far as is practicable, but without affecting the operation of paragraphs (c) and (d) of this subsection, the proportionate variation is the same for all hen quotas;
- (c) the hen quota of a poultry farmer referred to in subsection one of section twenty-nine of this Act is not reduced below his base quota unless it has been so reduced under Part VII of this Act; and
- (d) the hen quota of a poultry farmer referred to in subsection two of that section is not reduced below one thousand unless it has been so reduced under Part VII of this Act,

and shall, within such time as the Minister allows and specifies in writing to the Licensing Committee, submit the scheme to the Minister.

(2)

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(2) Where a scheme is submitted to the Minister under subsection one of this section, the Minister may—

- (a) adopt the scheme;
- (b) adopt the scheme with such modifications (other than modifications affecting the requirements of paragraphs (c) and (d) of subsection one of this section) as the Minister deems expedient and notifies to the Licensing Committee in writing; or
- (c) reject the scheme and direct the Licensing Committee to submit another scheme that complies with subsection one of this section.

(3) Where the Minister gives a direction under paragraph (c) of subsection two of this section, the Licensing Committee shall submit a scheme in accordance with the direction within such time as the Minister allows and specifies in writing to the Licensing Committee, and subsection two of this section shall apply to and in respect of a scheme so submitted as if it were a scheme submitted under subsection one of this section.

(4) Where the Minister adopts a scheme submitted to him under this section, or adopts such a scheme with modifications, the Licensing Committee shall notify each licensee of his hen quota under the scheme, or under the scheme as modified and, subject to subsection five of this section, of the first subsequent licensing season for which the hen quota so notified is his hen quota.

(5) The Licensing Committee shall not, under subsection four of this section—

- (a) notify different poultry farmers of different licensing seasons; or
- (b) notify a licensing season that commences earlier than one year after the notification.

PART

PART VI.**No. 74, 1971****REVIEW COMMITTEE.****DIVISION 1.—*Constitution and Powers of Review Committee.***

31. (1) Where the Licensing Committee has been constituted pursuant to Part III of this Act, the Minister may appoint a Review Committee which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(2) The Review Committee may do all acts necessary for or incidental to the exercise or discharge of the powers, authorities, duties or functions conferred or imposed upon it by or under this Act.

(3) In the exercise and discharge of its powers, authorities, duties and functions the Review Committee shall be subject in all respects to the control and direction of the Minister.

32. Where the Minister, by notification published in the Dissolution Gazette, declares that the Review Committee is dissolved, the members of the Review Committee shall cease to hold office as such and the dissolution of the Review Committee shall be deemed to have been effected.

33. (1) The Review Committee shall consist of three members, of whom—

- (a) one shall be appointed by the Minister as Chairman of the Review Committee; and
- (b) two shall be persons representing egg producers.

(2) On the occurrence of a casual vacancy in the office of a member of the Review Committee, the Minister may appoint a person to act in the place of the member who vacated that office.

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(3) A person appointed to fill a vacant office of a member of the Review Committee referred to in paragraph (b) of subsection one of this section shall be a person having the qualifications referred to in that paragraph.

(4) Each member of the Review Committee who is not an officer of the Public Service shall receive such remuneration, and each member of the Review Committee shall receive such allowances, as the Minister from time to time determines in respect of that member.

(5) A member of the Review Committee shall be deemed to have vacated his office and there is a casual vacancy in his office—

- (a) if he dies;
- (b) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- (c) if he is absent without leave of the Minister from four consecutive meetings of the Review Committee;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable; or
- (f) if he resigns his office by writing under his hand addressed to the Minister.

Procedures
at meetings
of the
Review
Committee.

34. (1) The procedure for the calling of meetings of the Review Committee and for the conduct of business at those meetings shall, subject to the regulations (if any) made under this Act, be as determined by the Review Committee.

(2)

Egg Industry Stabilisation.

(2) The Chairman, or in the absence of the Chairman, a member chosen by the members present at the meeting to act as Chairman, shall preside at any meeting of the Review Committee.

(3) Two members of the Review Committee shall form a quorum and any duly convened meeting of the Review Committee at which a quorum is present shall be competent to transact any business of the Review Committee and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Review Committee.

(4) A decision of a majority of the members present at a meeting of the Review Committee shall be the decision of the Review Committee.

35. The Review Committee may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service.

Use of services of officers, etc.

36. (1) The Review Committee shall consider and determine applications made to it under sections thirty-eight and thirty-nine of this Act.

Duties of Review Committee.

(2) Where the Review Committee has required an applicant to it to furnish information under section fifty-three of this Act, it may refuse to deal with the application until the information has been furnished.

37. (1) Subject to section thirty-three of this Act, a member of the Review Committee shall not demand or receive from any person any payment, gratuity or present in consideration of doing or omitting to do any act or thing pertaining to his office or employment for the purposes of this Act.

(2)

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(2) Subject to section thirty-three of this Act, a person shall not, without lawful authority, offer, make or give to a member of the Review Committee any payment, gratuity or present in consideration of the member doing or omitting to do some act pertaining to his office.

Penalty : One thousand dollars or imprisonment for six months or both.

Certain Group I poultry farmers may apply for review of base quotas.

38. (1) Subject to this section, a Group I poultry farmer who has been notified of his base quota pursuant to section twenty-six of this Act may apply to the Review Committee for a review of the base quota so notified.

(2) The grounds upon which an application may be made under subsection one of this section are—

- (a) that the operation of the poultry farm of the applicant during the relevant period was affected by fire or localised adverse seasonal conditions;
- (b) that any hens owned by the applicant during the relevant period were affected by disease;
- (c) that the operation of the poultry farm of the applicant during the relevant period was affected by the absence of the applicant or of his son due to his being engaged on service—
 - (i) in the Regular Army Supplement rendered under the National Service Act 1951, as subsequently amended, of the Commonwealth; or
 - (ii) as an officer in the Regular Army Supplement in pursuance of an appointment referred to in subsection one or two of section twenty-eight of that Act, as so amended;

(d)

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- (d) that the operation of the poultry farm of the No 74, 1971 applicant during the relevant period was affected by the illness of the applicant during that period;
- (e) that the base quota of which the applicant was notified pursuant to section twenty-six of this Act was calculated incorrectly; or
- (f) that the base quota of the applicant would be increased if the reference in subsection two of section twenty-three of this Act to the relevant period were a reference to the period that commenced at the expiration of the relevant period and ended on the day on which this Act received the Royal assent.

39. A Group II poultry farmer who has been Group II notified of his base quota pursuant to section twenty-six of this Act may apply to the Review Committee for a review of the base quota specified in the notification.

poultry farmers may apply for review of base quotas.

40. An application under this Part shall be in a form approved by the Minister and any form so approved may require information therein to be verified by statutory declaration.

Applications for review of base quotas.

41. (1) An application under this Part shall be lodged with the Review Committee within a period of twenty-eight days after the day on which the applicant is notified of his base quota under section twenty-six of this Act.

Time within which applications for review may be lodged.

(2)

No. 74, 1971

(2) Any application for a review of a base quota lodged with the Review Committee after the period referred to in subsection one of this section shall be rejected by the Review Committee unless the applicant satisfies the Review Committee that the late lodgment of his application was due to circumstances beyond his control.

Matters
which shall
be taken
into
account by
Review
Committee.

42. In making its decision with respect to an application under section thirty-eight of this Act, the Review Committee shall have regard to the grounds on which the application is made and, in making its decision with respect to an application under section thirty-nine of this Act, shall have regard to such matters as the Review Committee considers relevant or as may be prescribed.

Licensing
Committee
to issue
new quotas
on advice
of Review
Committee.

43. (1) Where the Review Committee determines that an applicant under this Part is entitled to an increase in his base quota it shall notify the Licensing Committee of the amount of that increase.

(2) Where the Review Committee determines that an applicant under this Part is or is not entitled to an increase in his base quota it shall notify the applicant of its determination and, where the base quota has been increased, of the amount of the increase.

Total
increase in
base quotas
not to
exceed
certain
number.

44. The Review Committee shall determine increases in base quotas under this Part so that the total number by which the base quotas are so increased does not exceed the number specified in an order made by the Minister and notified to the Review Committee.

PART

PART VII.**No. 74, 1971****SURRENDER AND RE-ISSUE OF LICENSES.**

45. (1) Subject to this section and section forty-six of this Act, where a licensee applies to the Licensing Committee in a form approved by the Minister for the purposes of this section and pays the prescribed fee, the Licensing Committee may, upon the surrender to it of the applicant's license—

- (a) cancel the applicant's license and issue a license to another person specified in the application;
- (b) cancel the applicant's license and issue to him a license relating to a place that is not identical with the place to which the cancelled license related; or
- (c) cancel the applicant's license, reduce his hen quota and—
 - (i) issue a license to the applicant; and
 - (ii) issue a license to another person specified in the application,

as may be requested in the application.

(2) The provisions of Division 2 of Part V of this Act apply to and in respect of licenses issued under this section as if they were licenses duly applied for under section seventeen of this Act.

(3) An application under paragraph (c) of subsection one of this section may only be made in respect of a reduction of five hundred or a multiple of five hundred.

(4) The Licensing Committee shall not approve an application under subsection one of this section in so far as such an approval would increase the hen quota of a person, or the total of the hen quotas of the members of a partnership, to more than two hundred and fifty thousand.

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Status of
certain
licensees.

46. (1) A person whose license is cancelled under paragraph (a) of subsection one of section forty-five of this Act ceases to be a poultry farmer for the purposes of this Act.

(2) Where, immediately before the issue of a license under section forty-five of this Act, the licensee was not a poultry farmer for the purposes of this Act he shall, while he holds the license, be deemed to be a poultry farmer for those purposes.

(3) A person to whom a license is issued pursuant to an application under section forty-five of this Act shall be deemed to be a Group I poultry farmer if—

- (a) immediately before the issue of the license he was a Group I poultry farmer; or
- (b) the applicant was, immediately before the cancellation of his license, a Group I poultry farmer.

Calculation
of certain
base quotas
and hen
quotas.

47. (1) Where, pursuant to an application under subsection one of section forty-five of this Act—

- (a) a license is issued under paragraph (a) of that subsection—
 - (i) the base quota of the licensee after the issue of the license is the total of the base quota of the applicant immediately before the cancellation of his license and the base quota, if any, of the licensee immediately before the issue of the license; and
 - (ii) the hen quota of the licensee after the issue of the license is the total of the hen quota of the applicant immediately before the cancellation of his license and the hen quota, if any, of the licensee immediately before the issue of the license;

(b)

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(b) a license is issued under paragraph (b) of that No. 74, 1971 subsection—the base quota, and the hen quota, of the licensee remain unchanged; or

(c) a license is issued under paragraph (c) of that subsection—

- (i) the base quota of the licensee referred to in subparagraph (i) of that paragraph after the issue of the license is his base quota immediately before the cancellation of his license, reduced in the same proportion as his hen quota is reduced;
- (ii) the hen quota of that licensee after the issue of the license is the reduced hen quota approved pursuant to the application;
- (iii) the base quota of the licensee referred to in subparagraph (ii) of that paragraph after the issue of the license is the total of a base quota equal to the reduction effected under subparagraph (i) of this paragraph and the base quota, if any, to which he was entitled immediately before the issue of the license; and
- (iv) the hen quota of that licensee after the issue of the license is the total of a hen quota equal to the reduction effected under subparagraph (ii) of this paragraph and the hen quota, if any, to which he was entitled immediately before the issue of the license.

(2) Where a license is issued under section forty-five of this Act before the commencement of the first licensing season, the hen quota of the licensee for the first licensing season, and for each subsequent licensing season that precedes the next succeeding licensing season to which a notification under subsection four of section thirty of this Act relates, is his hen quota calculated under subsection one of this section.

(1)

(3)

No. 74, 1971

(3) Where a license is issued under section forty-five of this Act during a licensing season, the hen quota of the licensee for the licensing season during which the license was issued, and for each subsequent licensing season that precedes the next succeeding licensing season to which a notification under subsection four of section thirty of this Act relates, is his hen quota calculated under subsection one of this section.

(4) The hen quota of a licensee under section forty-five of this Act in relation to a licensing season (not being a licensing season to which it is related by subsection two or three of this section) is his hen quota in relation to that licensing season as defined in paragraph (c) or (d), as the case may require, of the definition of "hen quota" in subsection one of section three of this Act.

PART VIII.

PERMITS TO KEEP HENS FOR BREEDING PURPOSES.

Licensing Committee may grant certain permits.

48. (1) Where a licensee applies to the Licensing Committee in a form approved by the Minister for the purposes of this section and pays the prescribed fee, the Licensing Committee may grant him a permit authorising him to keep hens other than broiler breeder hens or hens used for the production of eggs for human consumption.

(2) A permit under this section is issued subject to such conditions as are imposed by the Licensing Committee when issuing the permit and subject to such other conditions as may be prescribed.

(3) A permit under this section may be cancelled by the Licensing Committee for a breach of a condition to which it is subject.

(4)

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(4) Subject to subsection three of this section, a No. 74, 1971 permit under this section continues in force during the period specified in the permit, but this subsection does not operate to prevent the Licensing Committee from granting a permit under this section to a licensee who holds such a permit that is about to expire or to a licensee who held such a permit that has expired.

(5) A licensee who contravenes or fails to comply with a condition to which a permit issued to him under this section is subject is guilty of an offence against this Act and liable to a penalty not exceeding two hundred and fifty dollars and, in addition, a penalty not exceeding fifty dollars for every day during which the offence continues.

PART IX.**MISCELLANEOUS.**

49. The remuneration and allowances payable to the Egg members of the Licensing Committee and the Review Marketing Board to Committee under this Act and the costs of administration of pay costs of this Act shall be paid by the Board out of the funds of the administration of this Act. etc.

50. (1) The provisions of subsections one, two and Accounts of three of section twenty-three of the Marketing of Primary Licensing Committee. Products Act, 1927, apply to and in respect of the Licensing Committee as if it were a board constituted under that Act.

(2) The Licensing Committee shall, at the request of the Board, pay to the Board from moneys received by it such amounts as the Board may from time to time specify, and any amounts so paid shall become part of the funds of the Board.

(1)

(3)

No. 74, 1971

(3) Towards defraying the cost of the audit of the accounts of the Licensing Committee the Board shall pay to the Consolidated Revenue Fund such amounts as the Treasurer may from time to time specify.

(4) The Licensing Committee shall not make a payment out of moneys received by it other than a payment under subsection two of this section.

**Base quota
may be
allotted
in special
cases.**

51. (1) Notwithstanding any other provision of this Act, the Licensing Committee may, and shall if so directed by the Minister, in a special case and if it or he thinks it equitable or proper to do so, allot a base quota to any poultry farmer who, but for this section, would not be entitled to a base quota.

(2) Where the Licensing Committee allots a base quota pursuant to subsection one of this section or is directed by the Minister so to do, it shall as soon as practicable after the issue or direction, as the case may be, forward to that poultry farmer a notification referred to in section twenty-six of this Act.

**Records to
be kept by
certain
persons.**

52. (1) A person who—

- (a) keeps more than twenty broiler breeder hens; or
- (b) owns or occupies any land, place or premises, on, at or in which hen eggs from more than twenty hens are hatched,

shall, in the prescribed manner, make and keep a record of such particulars and matters as are prescribed.

(2) A person referred to in subsection one of this section shall—

- (a) keep the records so referred to for a period of two years after they are made; and

(b)

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(b) at the prescribed times forward to the prescribed No. 74, 1971 person copies of those records or such of them as relate to prescribed times or matters.

(3) A record made and kept under this section is evidence of the particulars and matters stated therein.

(4) A person who knowingly makes or causes or permits or allows to be made any false or misleading statement in any record required to be made under this section or in any copy (or purported copy) of that record required to be forwarded under paragraph (b) of subsection two of this section, is guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

53. (1) The Licensing Committee or the Review Committees may, by notice in writing served on an applicant to it, require the applicant to furnish, within such period as may be specified in the notice, such information relating to the application as it thinks fit, and may itself make or cause to be made such inquiries as it thinks fit, for the purpose of determining whether the information contained in the application is correct.

(2) The Licensing Committee or the Review Committee, as the case may be, may require information furnished by an applicant under subsection one of this section to be verified by statutory declaration.

(3) Where the Licensing Committee or the Review Committee requires a person to furnish information under this section and has not issued him with a license or reviewed his base quota, as the case may be, it may delay doing so until the information has been furnished.

No. 74, 1971 **54.** Where the Licensing Committee is satisfied that a person to whom a license or permit was issued under this Act was not entitled to the license or permit or furnished to the Licensing Committee or Review Committee false or misleading information in connection with an application the Licensing Committee may cancel the license or permit.

License or permit may be cancelled in certain circumstances.

Surrender of cancelled license. **55.** Where a license is cancelled otherwise than pursuant to section forty-five of this Act, the former holder of the license shall, if required by the Licensing Committee to forward the license to it within a specified period, comply with that requirement.

Member of Licensing Committee or Review Committee not to vote on certain matters. **56.** (1) A member of the Licensing Committee or the Review Committee shall not exercise his vote at a meeting of the committee of which he is a member in respect of a matter that directly affects his pecuniary interests and, if he does so, his vote shall not be counted.

(2) A member of a committee referred to in subsection one of this section shall leave a meeting of the committee during any discussion on a matter in respect of which he is, by that subsection, disqualified from voting.

Annual report. **57.** As soon as practicable after the end of each licensing season or, where a day is prescribed for the purposes of this section, as soon as practicable after the day so prescribed, the Licensing Committee shall prepare and furnish to the Minister a report on the operations and activities of the Licensing Committee during that licensing season and the Minister shall lay the report or cause it to be laid, before both Houses of Parliament as soon as practicable after its receipt by him.

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58. The Licensing Committee shall, in addition to any other report it may be required to prepare and furnish under this Act, furnish to the Minister, within a time specified by him, such reports on the operations of the Licensing Committee as the Minister may direct. No. 74, 1971
Minister
may require
further
reports.

59. Any person who contravenes or fails to comply with a provision of this Act for which no penalty is otherwise expressly provided is guilty of an offence against this Act and liable to a penalty not exceeding four hundred dollars. Penalty.

60. All proceedings for offences against this Act or the Proceedings. regulations made under this Act shall be disposed of summarily before a court of petty sessions.

61. The provisions of section thirty-two of the Marketing Offences by companies and joint offenders. of Primary Products Act, 1927, apply to and in respect of offences under this Act.

62. (1) The Governor may make regulations, not inconsistent with this Act, for and with respect to—

- (a) any of the powers conferred upon or duties imposed upon the Minister, the Licensing Committee or the Review Committee by this Act;
- (b) the making and keeping of records by a licensee or the holder of a permit issued under this Act, the inspection of those records and the production of those records in any legal proceedings;
- (c) the forms to be used for the purposes of this Act;
- (d)

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(d) 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

(e) fixing any penalties not exceeding four hundred dollars or, in the case of a continuing offence, not exceeding twenty dollars for each day during which the offence continues, for non-compliance with or contravention of any regulation.

(2) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject-matter.

STAMP