

MARKETING OF PRIMARY PRODUCTS ACT.

Act No. 34, 1927.

An Act to promote primary production by the formation of Marketing Boards representing producers and consumers of certain products; to provide for the taking of polls of such producers prior to the formation of the board for the product in which they are concerned; to confer upon such Marketing Boards powers with respect to marketing the products and making certain levies on the producers; to provide for the collection of statistics relating to products; and for purposes connected therewith. [Assented to, 25th March, 1927.]

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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:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Marketing of Primary Products Act, 1927."

(2) This Act shall commence and come into operation on a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Division into
Parts.

2. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—MARKETING BOARDS—*ss.* 5-24.

PART III.—STATISTICS—*s.* 25.

PART IV.—DIRECTOR OF MARKETING—*ss.* 26-30.

PART V.—GENERAL—*ss.* 31-34.

Construction.

3. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any enactment thereof would but for this section have been construed as being in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Interpreta-
tion.

4. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Authorised agent" means any person authorised by a Marketing Board to take delivery of the product on its behalf in the exercise of its powers under this Act; the term includes any agent, employee, or servant of an authorised agent empowered by such authorised agent to act on his behalf in taking such delivery, and also any agent, employee, or servant of such agent.

"Board" means a Marketing Board constituted under this Act in relation to a specified commodity or commodities.

"Certificate"

- “Certificate” means any document in the prescribed form issued by a board or its authorised agent as evidence of the delivery of the product by a producer to the board. George V,
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- “Commodity” means any product which the Governor has, by proclamation published in the Gazette, declared to be a commodity for the purposes of this Act.
- “Consumer” means any person resident in New South Wales not being a producer.
- “Deliver to the board” means to deliver or tender or cause to be delivered or tendered to an authorised agent for acceptance on account of a Marketing Board any of the product of which it is intended to yield possession to the board.
- “Person” includes any partnership or firm or company or society formed under any Act and any body of persons corporate or unincorporate.
- “Prescribed” means prescribed by this Act or by regulations made under this Act.
- “Producer” means a person by whom or on whose behalf a product is actually grown, produced, or prepared for sale, and includes a son of eighteen years of age and upwards of a producer working on his father’s farm, not for wages but for his keep and pocket money only: where the product is grown, produced, or prepared pursuant to any share-farming agreement or partnership agreement, the term includes the parties to such agreement: the term does not include a person engaged as an employee on wages or salary or piece-work rates.
- “Product” includes any grain, cereal, fruit (fresh, dried, or canned), vegetable, live stock, wool, meat, hay, chaff, eggs, poultry (live or dead), honey, beeswax, or other product of agriculture, grazing, poultry-farming, or bee-keeping in New South Wales, and any dairy produce (including fresh milk, butter, and cheese) and any other article of commerce prepared

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prepared other than by any process of manufacture from the produce of agriculture, grazing, poultry-farming, or bee-keeping in New South Wales, but does not include dried currants, dried sultanas, or dried lexias.

“Regulations” means regulations made under this Act.

“Sell” includes barter and exchange; and “Sale” has a corresponding meaning.

“State Marketing Bureau” means the marketing bureau established under this Act.

“This Act” includes all regulations made under this Act.

Nothing in this Act shall apply to wool.

PART II.

MARKETING BOARDS.

Poll of
producers.

5. (1) The Governor shall from time to time, when requested so to do by a petition signed by a representative number (not being less than one hundred or one half the number of producers engaged in producing the commodity where that number does not exceed one hundred and fifty) of the producers of any particular product, by proclamation declare that such product or any specified variety or grade thereof shall, within the area or locality described and for such time as is specified in the proclamation, be a commodity under and for the purposes of this Act.

(2) The Governor shall by the same proclamation declare a day (not being less than fifty days after the publication of the said proclamation in the Gazette) for a poll to be taken of the producers of such commodity resident or carrying on the business of production within the area or locality mentioned in such petition on the question whether a Marketing Board shall be constituted in relation to the said commodity.

(3) If more than two-thirds of the votes polled are in favour of the constitution of a board, the Governor shall by a subsequent proclamation declare that a board shall

shall be constituted in relation to the commodity so declared, and extend the provisions of this Act to the commodity :

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Provided that no such proclamation shall be made unless the votes polled are given by at least two-thirds of the producers engaged in producing the commodity.

The Governor shall by the same proclamation appoint a day, not being less than fifty days after the publication of the proclamation in the Gazette, for a poll to be taken of the producers of the commodity resident or carrying on the business of production within the area or locality for the election in the prescribed manner of three representatives of producers to be members of the board.

(4) It shall be compulsory for producers to vote on the question of the constitution of the board under a penalty of not less than two pounds for failure to vote.

(5) Provision for the expenses of any poll taken under this section shall be made by the Minister; and if a board is constituted under this Act as a result of any such poll the board shall, on receipt of a notice in writing signed by the Minister specifying such costs and expenses, reimburse the Minister out of the proceeds of a levy in respect of the commodity to be made by the board as hereinafter in this Act provided.

Expenses
of poll.

(6) No person shall be allowed to vote on any poll taken under this section unless his name is included in the list of producers which the Director of Marketing shall compile for this purpose in the prescribed manner.

(7) The regulations may prescribe the classes of persons deemed to be producers and the method of voting on such polls and the method of choosing the representatives of such producers.

(8) Where upon a poll of producers taken in the prescribed manner upon the recommendation of the board constituted in relation to a commodity more than two-thirds of the votes polled are in favour of the following provisions of this subsection being availed of, the Governor by proclamation may provide and declare that the commodity shall forthwith, upon the date of publication of the proclamation or on and from a date specified therein, or upon the fulfilment of such conditions

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(9) Upon the date of such publication or on such date as is specified in such proclamation, or upon the fulfilment of the conditions therein specified as the case may be, the commodity shall become the absolute property of the board freed from all mortgages, charges, liens, pledges, interests, and trusts affecting the same, and the rights and interests of every person in the commodity shall thereupon be taken to be converted into a claim for payment therefor in pursuance with the provisions of this Act.

**Saving of
Interstate
contracts.**

(10) Such proclamation shall not have effect so as to prejudice any interstate contract for the sale of any of the commodity entered into prior to the date of the vesting in the board of the commodity by such proclamation.

**Duration and
extent of
notification.**

(11) Any proclamation made under this Act may—

- (a) be of limited duration; or
- (b) be made with respect only to certain specified districts, areas, or localities of New South Wales; or
- (c) fix a date on and after which the functions of the board under this Act shall cease; or
- (d) be rescinded upon a resolution in that behalf of both Houses of Parliament; or
- (e) subject to this Act, may be amended by a subsequent proclamation.

(12) Upon the petition of a representative number (not less than one hundred or one half the number engaged in producing a commodity where that number does

does not exceed one hundred and fifty) of the producers of any particular product the Governor may direct that a poll of the producers of the product be taken as to whether the board constituted for that product should be dissolved. If the vote is in favour of dissolution a proclamation shall be issued dissolving the board.

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(13) Every proclamation made under this Act shall be published in the Gazette and in such newspapers as the Governor directs.

6. The powers conferred upon the Governor by section five of this Act to declare any product to be a commodity under and for the purposes of this Act and to constitute a board in relation to such commodity and otherwise to exercise the powers in the said section vested in him shall, in a case where the Governor thinks it proper so to do, be construed so as to confer upon him the power to declare two or more products to be commodities under and for the purposes of this Act, and to constitute a board in relation to all of the said commodities, and otherwise to exercise the powers conferred upon him by the said section in relation to the said commodities and the said board, so that the board shall have the same rights, powers, authorities, duties, and obligations with respect to all the said commodities as if all of them were one and the same commodity :

Board may
control
several
commodities.

Provided that in every such case—

- (a) The provisions of section five of this Act shall, as nearly as practicable, be applied with respect to the said products or commodities and the said board and all persons, matters, and things concerned.
- (b) The powers by this section conferred upon the Governor may be exercised by him so that a new commodity may be declared as aforesaid and the same or any of them placed under the control of a board already constituted for another product.

In such case the provisions of paragraph (a) of this proviso shall be applied as nearly as may be, with such modifications as are necessary to meet the particular circumstances of the case.

(c)

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(c) In the exercise of the powers by this section conferred upon him, and for the purpose of carrying into full effect the objects and purposes of this Act, the Governor may by proclamation (whether an original proclamation or any modification or amendment thereof or a subsequent proclamation) make all such adjustments and give all such directions as appear to him to be necessary to meet the circumstances.

He may also, where a board is constituted for several commodities, or where a new commodity is placed under the control of a board already constituted, make such provision for the representation by election of the producers of each of such commodities on the board as he deems proper.

The board in any such case shall comprise not less than five producers' representatives.

Appointment
of members of
board.

7. (1) The Governor shall, as soon as practicable after the application of this Act to a commodity, appoint in respect thereof a Marketing Board the members of which shall be at least five in number and shall comprise the Director of Marketing, three representatives elected by the producers, and one person selected by the Governor to be a representative of the consumers, and shall notify the appointment of such board in the Gazette.

On the publication of the notice the board shall be deemed to be duly constituted.

(2) The members of the board being producers' representatives shall at the first meeting of the board, which shall be held within the prescribed time after the constitution of the board, elect one of such elected producers' representatives to be chairman of the board: Provided that on failure of such members to elect such chairman as aforesaid the Governor shall appoint one of such elected representatives of the producers to be chairman.

Additional
members.

(3) The Governor may from time to time on the recommendation of a board direct that an additional representative of the producers be elected to the board,
and

and may, on the death, resignation, or disqualification of any member of a board direct that an election be held to fill the vacancy.

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(4) The board shall not be deemed to represent the Crown for any purpose whatsoever.

(5) The board shall be called the "The (name of commodity) Marketing Board for the (name of area or locality)," and shall have the powers and perform the duties conferred and imposed upon it by this Act.

Name of
board.

(6) The members of the board shall be paid such remuneration from the funds of the board as may be approved by the Governor.

Remunera-
tion of
members.

(7) Any elected or appointed member may resign his office by writing under his hand addressed to the Minister; and such resignation shall be complete from the time when it is received by the Minister.

(8) No proceedings of the board, or of any person acting as chairman or member, shall be invalidated by reason of any defect in the appointment or election of or of any disqualification of any such person, or by reason of there being any vacancy in the number of members at the time of such proceedings.

(9) All powers vested in the board may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

Upon every question the chairman shall have a vote: if the numbers are equally divided he shall have a second or casting vote.

(10) Any person who has his affairs under liquidation or is an uncertificated or undischarged bankrupt or has been convicted of an indictable offence or is undergoing a sentence of imprisonment or becomes an insane person shall be disqualified from being appointed or elected or from continuing a member of the board.

(11) The board shall cause minutes of their decisions to be kept.

(12) The board shall be a body corporate and may sue and be sued in its official name.

8. It shall not be lawful for any board to expend any of its funds for any purpose whatsoever in connection

Boards not to
be concerned
in party
politics.

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No. 34. connection with the politics of any political party; nor shall the board become affiliated in any way whatsoever with any body, association, or organisation having for its object or any of its objects the support of the politics or programme or aims of any political party.

If at any time the Governor is satisfied that any board has acted in contravention of any of the provisions of this section, the Governor may, by proclamation published in the Gazette—

- (a) remove the members of the board from their offices;
- (b) direct that the board shall be reconstituted by the election and by the appointment of other members in the room of the late members, and the new members so elected (or appointed) shall, subject to this Act, hold office for the remainder of the period for which the late members would have held office if they had not been so removed;
- (c) appoint a receiver or manager of the board who may continue its functions, subject to the control of the Minister, until it is reconstituted.

General
powers of
board.

9. A board may, for the purposes of this Act, from time to time exercise all or any of the following powers:—

- (i) Purchase, contract for the use of, or otherwise provide and hold any land which may be required by the board, and any personal property whatsoever.
- (ii) Contract for the use of or erect or otherwise provide any buildings or structures, and repair, equip, furnish, and maintain the same.
- (iii) Dispose of any property held by them under the foregoing provisions in paragraphs (i) and (ii) contained, for such price and on such terms and conditions as to the board seem proper or as may be prescribed.
- (iv) Enter into and carry out such contracts and do and suffer all such other acts and things as may be necessary and convenient for the purposes of this Act.

Marketing

*Marketing powers, &c.*George V,
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10. Subject to this Act a board may sell or arrange for the sale of the commodity and do all acts, matters, and things necessary or expedient in that behalf accordingly; and in particular, but without limiting the generality of the foregoing powers, may—

Powers of
Marketing
Board.

- (i) appoint, employ, or authorise such agents, officers, servants, and other persons as are necessary; and
- (ii) arrange for financial accommodation with the Government of the Commonwealth, or with any bank, or with any other institution approved by the Governor, and give such securities for advances as will effectually place the commodity or any part thereof under the legal control of the said Government bank or institution which affords the accommodation; and
- (iii) as far as practicable, provide the commodity for consumption in New South Wales, and for its supply during any period of shortage to those places within New South Wales wherein a shortage is experienced; and
- (iv) make such arrangements as they deem necessary with regard to sales of the commodity for export or for consignment to other countries or States: for the purposes of this provision a sale of the commodity for overseas ships' stores shall be deemed to be a sale for export; and
- (v) receive and consider any petition signed by a prescribed number of consumers of the commodity in the area or locality for which the board was appointed.

11. (1) Where a product has been declared a commodity, and a proclamation vesting it in the board has been issued then, save as hereinafter prescribed, all the commodity shall be delivered by the producers thereof to the board or its authorised agents within such times,

All the
commodity
to be
delivered to
Marketing
Board.

at

**George V,
No. 34.** at such places, and in such manner as the board may by public notice, or in a particular case in writing direct, or as may be prescribed.

(2) When a product has been declared a commodity, but no proclamation vesting it in the board has been issued then all the commodity so delivered shall be deemed to have been delivered to the board for sale by the board on behalf of the producers thereof.

Prohibition
of sales, &c.

(3) Any person who, save as hereinafter prescribed, sells or delivers any of the commodity to or buys or receives any of the commodity from any person other than the board, shall be liable on summary conviction to a penalty not exceeding one hundred pounds. This subsection shall not apply to the sale, delivery, purchase, or receipt of any of a commodity which has been tendered to and the acceptance of which has been refused by the board.

Exemptions.

(4) The board may, in such cases and on such terms and conditions as may be prescribed, exempt (either generally or in any particular case) from the operation of this section—

- (a) such small producers of the commodity as the board think fit;
- (b) sales of the commodity direct to local consumers or to retail vendors;
- (c) such portion of the commodity as the producer may require for his own use as seed or for food for his family or his live stock; and
- (d) such other sales and purchases or receipts of the commodity as may be prescribed.

(5) The board's decision as to whether any specified person or article falls within the limits of any such exemption shall be final.

(6) The board may at any time, by notification published in the Gazette, revoke any such exemption.

Delivery in
name of
producer.

12. All the commodity delivered to a board shall be delivered in the name of the producer thereof, or where the commodity is delivered by any society registered under the Co-operation, Community Settlement, and Credit Act, 1923, in the name of that society, and if so prescribed such producer or society shall tender with each

each consignment of the commodity intended for delivery to the board a certificate of merchantable quality from a State grading officer or other officer appointed in that behalf, indicating the quality of the commodity comprised in the consignment.

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Any person who fails to comply with this section shall be guilty of an offence against this Act.

13. The tendering of the commodity by any person (whether by himself or by any other person authorised by him) to an authorised agent, for acceptance of delivery by him, shall be prima facie evidence of an intention to deliver the tendered commodity to the board to be disposed of by the board in accordance with this Act.

Tender
evidence of
intention to
deliver.

14. (1) A board shall not refuse to accept from any producer any of the commodity which is of the prescribed quality, or which conforms to the prescribed standard, or (when so prescribed) for which a certificate of merchantable quality from a State grading officer or other officer appointed in that behalf has been obtained and tendered with the commodity, provided that the commodity is delivered in accordance with this Act within such reasonable times as shall be fixed by the board.

Acceptance
by board, &c.

(2) Subject to this Act the board shall, out of the proceeds of the commodity disposed of by the board under this Act, make payments to each producer of the commodity delivered to the board, in respect of the commodity delivered by him, on the basis of the net proceeds of the sale of all the commodity of the same quality or standard delivered to and sold by the board during or covering such periods of time as may be prescribed and the proportion of such commodity so delivered by such producer during each such period.

Payments to
producer.

(3) For the purpose of ascertaining the net price to be paid to the producers of the commodity delivered to the board, and generally for the purposes of this Act, the board's decision as to the quality or standard of such commodity, the method of determining the dockages or deductions, cost of freight from trucking point to customary

Decision as
to quality,
&c.

George V, customary shipping port, and other charges, and all
No. 34. expenditure incurred in and about the marketing of the
commodity shall be final.

(4) The board shall pay to every producer the value of so much of his commodity which has been stacked, stored, or otherwise dealt with in the prescribed manner so as to be ready for delivery to the board, and which thereafter, through no fault of the producer, has been damaged or destroyed before such delivery.

Issue of
certificates
and payment
in connection
with
commodity
delivered to
board.

15. (1) As soon as practicable after the receipt of any commodity the board shall issue to the producer thereof a certificate in the prescribed form :

Provided that the board, if they have received notice of any mortgage, charge, lien, or encumbrance over or contract relating to such commodity, may in their discretion refuse or withhold the issue of such certificate.

(2) Where the commodity is grown under a share-farming agreement the board may, in their discretion, issue separate certificates to the parties to such agreement in accordance with their interests in the commodity.

(3) The board may make or arrange for advances on account of the commodity delivered to the board, and any such advances and any payment made on account of such commodity may be made at such time or times, and on such terms and conditions, and in such manner as the board may think fit.

Contracts
for sale of
commodity.

16. (1) Every contract which is made in or outside of New South Wales, whether before or after the extension of this Act to the commodity, so far as it relates to the sale of the commodity for delivery in or out of New South Wales, shall, when specified by the board in a notification published in the Gazette, be and is hereby declared to be and to have been void and of no effect as from the date upon which it was made, so far as such contract has not been completed by delivery at the date of such notification : Provided that for the purposes of this section any such contract shall be deemed to be severable.

(2)

(2) Any transaction or contract with respect to any commodity which is the subject-matter of any contract or part of a contract declared by this section to be void shall also be void and of no effect, and any money paid in respect of any contract or part of a contract hereby made void or of any such transaction shall, to the extent to which the said contract or transaction is made void, be repaid.

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(3) Nothing in this section shall apply to a commodity the subject of an interstate contract.

Interstate
contracts
excluded.

17. Notwithstanding anything in the Government Railways Act, 1912, as amended by subsequent Acts, or the law relating to common carriers, or any agreement to the contrary (whether made before or after the extension of this Act to the commodity), the Railway Commissioners for New South Wales and any common carrier and any owner, charterer, master, or agent of any ship may, on the request of a board (which request a board is hereby authorised to make) without incurring liability, refuse to carry any of the commodity (not the subject of an interstate contract) from any place in New South Wales to any other place in New South Wales, or, except as prescribed, to deliver any of the commodity.

Power of
Railway
Commis-
sioners, &c.,
to refuse to
carry.

18. (1) No action for damages shall be brought against any board or any person acting under its authority by any person or society claiming to be entitled to any bill of sale, mortgage, charge, lien (including any lien under the Lien on Crops and Wool and Stock Mortgages Act, 1898, or the Co-operation, Community Settlement, and Credit Act, 1923), or other encumbrance whatsoever of or upon or over any of the commodity or claiming to be the true owner of the commodity.

Remedy
against
board
confined to
claim for an
account.
cf. Vict. Act
No. 2,846
(1916), s. 6.

(2) Any person who but for this section might have brought any such action may adopt the delivery of the commodity to the board as a delivery thereof by him to the board, and may claim accordingly for an account of the payments due in respect thereof.

(3) Notwithstanding anything in the Lien on Crops and Wool and Stock Mortgages Act, 1893, or any other Act, or any rule of law to the contrary, any such person

Notice of
lien, &c., to
be given
to board.

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person or society shall not be entitled to claim as aforesaid for an account of the payments due in respect of the commodity, or any part of such payments, unless he has given prior notice in writing to the board in the form and containing the particulars prescribed of such bill of sale, mortgage, charge, lien, or other encumbrance, or claim of ownership, and then only for such part of such moneys as has not been paid to other persons at the time of the receipt by the board of such notice.

Duty to
give notice
of encum-
brances, &c.,
on delivery
thereof.

19. (1) Every producer of the commodity which is subject to any bill of sale, mortgage, charge, lien, or encumbrance referred to in section eighteen of this Act, or in respect of which or of the crop from which the same was harvested he has entered into any contract in derogation of his title to sell the commodity as the absolute owner thereof (and whether such bill of sale, mortgage, charge, lien, or encumbrance or contract was made before or after the extension of this Act to the commodity), shall, when delivering the commodity to the board, give to the person receiving the commodity on behalf of the board a notice in writing in the prescribed form of every such bill of sale, mortgage, charge, lien, or encumbrance or contract.

(2) A notice given in respect of a delivery made to any person receiving the commodity on behalf of the board at one railway station or place of delivery shall not be deemed to be a compliance with this section in respect of a delivery made to any other person receiving the commodity on behalf of the board at the same or any other railway station or place of delivery.

(3) Any person wilfully guilty of a failure to comply with any of the provisions of this section shall be guilty of an offence against this Act.

Non-liability
of board
for payments
in good
faith, &c.

20. Where a board in good faith and without negligence has made any payment—

- (a) to a producer delivering or causing to be delivered any of the commodity to the board or any person acting under their authority; or
- (b) to any person entitled or claiming to be entitled through such producer; or
- (c) to any person on the order of such producer or last-mentioned person;

the

the board shall not be answerable to any other person in respect of such payment for the commodity or any part thereof or in any action, suit, claim, or demand whatsoever for damages or otherwise. George V,
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21. (1) If prior to receiving notice of claim to any certificate or to the chose in action or any part thereof the subject-matter of a certificate any board has in good faith and without negligence adjusted and settled with the person named in such certificate for the money payable thereunder, the board shall not incur any liability to the true owner of such chose in action or any part thereof or to any party claiming through, under, or in trust for him: Provided that a board shall not be entitled to the protection of this subsection in respect of any moneys remaining in its hands at the time of receipt by it of notice of such claim or thereafter coming to its hands in respect of a chose in action the subject-matter of such a claim. Protection
of board.

(2) This section shall not in any way prejudice or affect any rights inter se of any parties claiming adversely to one another to be entitled whether at law or in equity to the chose in action the subject-matter or part of the subject-matter of any certificate.

(3) A board may plead this section in absolute bar of any proceeding (whether at law or in equity) by any producer, transferee, or party aforesaid in respect of such chose in action or any part thereof.

22. No action, claim, or demand whatsoever shall lie, or be made or allowed by or in favour of any person whomsoever, against His Majesty or the Minister or (save as in this Act provided) a board or any officer or person acting in the execution of this Act for or in respect of any damage or loss or injury sustained or alleged to be sustained by reason of the passing of this Act or the extension of this Act to a commodity, or of its operation, or of anything done or purporting to be done thereunder. Protection
of the
Crown and
its officers.

23. (1) Every board shall cause true and regular accounts to be kept of all sums of money received and paid for or on account of this Act or pursuant thereto, and of the several purposes for which sums of money have been received and paid. Accounts o
receipts and
disburse-
ments to be
kept.

(2)

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(2) Statements of accounts shall be exhibited at such places and at such times as may be prescribed.

(3) Such accounts shall be audited by the Auditor-General, who shall have with respect to such accounts all the powers conferred on him by the Audit Act, 1902, and Acts amending the same.

(4) A board shall in each year pay into the Treasury such sum as is fixed by the Colonial Treasurer towards the amount payable by the Crown in respect of the salaries of the officers of the Auditor-General engaged in the audit of the accounts of the board.

Levy by board.

Board may
make levy.

24. (1) The board, with the prior approval of the Governor, may from time to time make a levy in respect of the commodity for which the board is constituted, in such amount as the board, with the approval of the Governor, may determine, and may retain the amount of any such levy out of the funds in its hands arising from the sale or pledge of the commodity.

Application
of proceeds
of levy.

(2) All moneys raised by a board in respect of levies under this section shall be paid to the credit of a special account in the books of the board and shall be applied as follows:—

- (i) In payment of such administrative expenses of the board as the board may from time to time determine to be payable out of such account; and
- (ii) In payment to the Minister of the sums of money mentioned in a notice signed by the Minister specifying the cost and expenses of taking a poll of producers and addressed to the board as provided in section five of this Act; and
- (iii) In payment of any advances made to the board for the purposes of this Act; and
- (iv) In establishing and maintaining a fund for the purpose of effecting insurances against pests, fire, hail, flood, or other casualty; and
- (v)

- (v) for use in co-operation with the Department of Agriculture in its instructional and experimental work for the improvement of the quality of the product grown or for effecting any other special object which the board may determine to be in the common interest of the producers of the particular commodity :

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Provided always that it shall not be competent for a board to establish any such fund as in paragraph (iv) hereof mentioned unless or until the purpose for which it is proposed to establish the fund and the rate of levy in respect of the commodity for that purpose are expressly approved by the Minister and the prescribed notice of intention to make the levy given.

Moreover, before any levy is made for the purpose of the establishment of such fund, a number of producers of the particular commodity, being the prescribed proportion of the whole number of the producers affected by the proposal, may request that a poll of producers upon the question of the establishment of a fund shall be taken, and thereupon the board shall take such poll, and if upon such poll the majority of votes is against the establishment of such fund no part of any levy made by the board shall be devoted to the establishment of such fund or expended for any purpose for which it was proposed that such fund should be established.

(3) If it is proposed to establish any fund, as in paragraph (iv) of subsection two of this section mentioned, in the common interest of producers of any particular class of fruit, the regulations may provide that a poll may be requested by and a poll may be taken of producers of that particular class of fruit, and that if the establishment of such fund is approved (whether without a poll being requested or after a poll), the levy in that behalf shall be in respect of that particular class of fruit only.

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PART III.

STATISTICS, &c.

Statistics.

25. (1) There shall be a State Marketing Bureau, which shall be under the charge of the Director of Marketing.

(2) The Governor shall, upon the recommendation of the Public Service Board and in accordance with the Public Service Act, 1902, appoint to such bureau such officers as may be necessary for the administration thereof.

(3) The functions of the bureau shall be to :—

- (a) Compile annually a register of all producers in New South Wales grouped in industries.
- (b) Take steps to determine and record the costs of production of all products in New South Wales.
- (c) Keep a continuous record of all products entering New South Wales by land or sea.
- (d) Keep a continuous record of products grown and marketed in New South Wales.
- (e) Keep a continuous record of products grown in New South Wales and marketed in other States or overseas.
- (f) So far as practicable, keep a record of the primary production of the other States of the Commonwealth and of the Dominion of New Zealand, and such other similar records as may have a bearing upon the marketing of the products of New South Wales.
- (g) Collect and keep records of returns to producers, wholesale prices and retail prices for products grown and marketed in New South Wales.
- (h) Collect and keep records of selling prices and returns to producers for products of New South Wales marketed in other States or abroad.
- (i) Collect and keep records of wholesale and retail prices in New South Wales in respect of products imported from other States and overseas.

PART IV.

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DIRECTOR OF MARKETING.

26. (1) The Governor may from time to time, on the recommendation of the Public Service Board, under and subject to the provisions of the Public Service Act, 1902, and Acts amending the same, appoint an officer, to be called the "Director of Marketing," upon such terms and at such salary as the Governor may determine.

Appointment
of Director
of Marketing.

(2) The Director of Marketing shall have such powers and duties as are assigned to him from time to time by the Minister.

He shall not accept or hold any paid employment outside the duties of his office, or be a director of a company or society.

(3) The Director of Marketing shall be entitled to demand and receive, in respect of his acting on each board of which he is appointed a member, such expenses as other members of such board are entitled to demand and receive out of the funds of such board.

27. (1) The Director of Marketing shall be responsible to the Minister for the due and effective administration of this Act and of such other Acts having relation to the marketing of primary products as shall be referred to him by the Governor, and without limiting his powers or status, shall undertake and discharge the following duties and functions, that is to say:—

Duties of
Director of
Marketing.

- (a) Publish from time to time forecasts of primary production in each of the States of the Commonwealth of Australia, New Zealand, and such other countries as the Minister may deem advisable;
- (b) publish from time to time information as to supplies of primary products received by, in process of despatch to, or available for markets in New South Wales, and as to the ruling wholesale and retail prices therefor;
- (c) co-operate as far as possible among the Marketing Boards and societies registered under the Co-operation, Community Settlement, and Credit Act, 1923, in promoting and facilitating collective marketing;

(d)

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- (d) obtain and furnish information relating to prices, profits, and costs involved in the production or distribution of products and to the supply, demand, sales, purchases, deliveries, receipts, offers, acceptances, storage, and commercial movements of products and to any other factors affecting the market value of products or market conditions;
- (e) obtain and furnish information regarding the sources of supply of products necessary for the people of the State and the location of markets for products;
- (f) obtain and furnish information relating to economy and efficiency in the distribution of products, so that needless waste and duplication may be so far as possible eliminated;
- (g) obtain and furnish information relating to the selection of proper shipping routes, adoption of advisable shipping methods, avoidance of delays incident to transportation, and to other distribution problems connected with transportation;
- (h) assist in the organisation, operation, or re-organisation of public markets for products.

(2) Nothing in this section shall be construed to affect the powers of a Marketing Board in the discharge of its functions under this Act.

Annual
report of
Director of
Marketing.

28. The Director of Marketing shall, once in every year, make in respect of the preceding period of twelve months ending on the thirtieth day of June in each year, a report to the Minister containing a summary of the work done and investigations made, with statistical and other information.

Director may
require
producers to
furnish
returns.

29. (1) The Director of Marketing may from time to time by notice published in the Gazette require producers of any product or commodity to furnish a return in the form specified in such notice showing the quantity of the product or commodity held at any time specified in such notice and setting forth such other particulars (if any) in relation thereto as may be specified therein.

(2)

(2) Any person who fails to comply fully and sufficiently with any of the requirements of such notice, or who wilfully furnishes any false or misleading return, shall be guilty of an offence against this Act. George V,
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30. The Director of Marketing may from time to time arrange with any person to publish or broadcast information as to the current wholesale and retail prices of any product or commodity, and may furnish such person with such information under his hand. Broadcasting.

The information so furnished shall alone be published or broadcasted as official information.

Any person publishing or broadcasting information as to the current wholesale and retail prices of any product or commodity as official, unless the information has been furnished under the hand of the Director of Marketing, shall be guilty of an offence under this Act.

PART V.

GENERAL.

31. (1) Any moneys payable under this Act may be recovered by complaint under the Justices Act, 1902, and Acts amending the same, in the name of such person as the board may authorise in that behalf, before any two justices. Recovery of
levies, fines,
penalties, &c.

(2) Every person guilty of an offence against this Act shall for every such offence be liable, if no other penalty or punishment is imposed, to a penalty not exceeding fifty pounds.

(3) The institution of criminal proceedings against, or the conviction of a person for any offence against this Act shall not affect any remedy which any other person aggrieved may be entitled to in any civil proceeding.

(4) No justice shall be deemed incapable of acting in any case arising under this Act by reason only of his being, as one of several producers, or as one of any other class of persons, liable in common with others to contribute to or be benefited by the funds of a board.

32.

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Companies.

Joint
offenders.

Evidence.

32. (1) If any person committing an offence against this Act 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 of them be liable to the like punishment.

(2) If two or more persons are responsible for the same offence, each of those persons shall be guilty of the offence, and the liability of each of them shall be independent of the liability of the others.

33. In any proceedings for any offence against this Act—

- (1) Any notification, requisition, direction, demand, order, or other document in writing, purporting to be signed or made or sent by a board or the chairman or secretary thereof or the Director of Marketing, shall be judicially noticed.
- (2) The production of a copy of the Gazette purporting to contain any proclamation, notification, direction, or order made by a board or the Minister or the Director of Marketing shall be conclusive evidence of the matters contained therein, and that all steps necessary to be taken prior to the making of such proclamation, notification, direction, or order have been duly taken.
- (3) The averment on behalf of the board in any complaint that anything was or is a commodity or product to which the provisions of this Act are applicable, or was or is such a commodity or product mentioned or included in any proclamation, notification, direction, or order, or that any place is a place in New South Wales, or that any person is a producer of such a commodity, or is an authorised agent, shall be prima facie evidence of that fact.
- (4) Any document or anything purporting to be a copy of or extract from any document containing any reference to any matter or thing alleged to be done in contravention of this Act shall, upon proof that it was produced by or came from the custody of a person charged with the offence, or a responsible officer or a representative of that person, be admissible

admissible in evidence against that person and evidence of the matters and things thereby appearing and that the document (or, in the case of a copy, that the original thereof) was written, signed, despatched, and received by the persons by whom it purports to have been written, signed, despatched, and received, and that any such copy or extract is a true copy of or extract from the original of or from which it purports to be a copy or extract.

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34. (1) The Governor may from time to time make Regulations, such regulations providing for all or any purposes, whether general or to meet particular cases, as may be convenient for the administration of this Act, or as may be necessary or expedient to carry out the objects and purposes of this Act, and, where there may be in this Act no provision or no sufficient provision in respect of any matter or thing necessary or expedient to give effect to this Act, providing for and supplying such omission or insufficiency.

Without limiting the generality of the foregoing provisions, such regulations may provide for all or any of the following matters:—

(i) Generally—

(a) Making all necessary provision for and regulating the conduct by post or otherwise of the election from time to time of members of any board, and for the taking of any poll of producers under this Act; compilation and revision of rolls of producers entitled to vote at elections or polls; method of determining the qualification of voters; settlement of disputed elections or questions arising out of or in connection with any election or poll; the tenure of office of members; the filling of casual vacancies therein arising from death, retirement, or resignation; the appointment of a deputy to act for any member in the event of illness, absence, or for other cause.

Members,
elections &c.

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- Forms.
Returns, &c.
- General.
- Business.
- Conditions of sale.
- Quality, standard, &c.
- Computation of net proceeds.
- (b) Prescribing the certificates and other forms which may be used under this Act.
- (c) Prescribing forms of returns and of statistics to be made and furnished to the Director of Marketing or any board and the contents thereof, and the persons (whether producers or not) by whom the same shall be made, and the time and mode of making and furnishing the same.
- (d) All matters required or permitted by this Act to be prescribed.
- (ii) With respect to boards, all regulations shall be as recommended by the board and may provide for all or any of the following matters :—
- (a) The business, proceedings, and meetings of the board; the quorum at meetings; the signing of documents.
- (b) The fees, allowances, and travelling expenses which may be paid to members.
- (c) Authorising the board in every sale or agreement for sale of the commodity by the board to any person to insert conditions and to fix a sum as and by way of liquidated damages for any breach of condition, which damages shall be recoverable accordingly.
- (d) Ascertaining whether the commodity is of the required quality and prescribing a standard therefor, and for an increase or decrease in the price otherwise payable to any producer for any of the commodity delivered by him to the board according to the quality or standard of the commodity; and regulating the storage, package, marketing, branding, grading, carriage, exporting, and delivery of the commodity.
- (e) Prescribing periods of time in respect of which the computation of or accounting for the net proceeds of the commodity may be made.
- (f)

- (f) Issuing licenses by a board with the approval of the Minister to wholesale dealers to trade in a commodity. Any such license may, on the recommendation of the board, be withheld in any case without assigning any reason therefor. George V,
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Licenses.
- (g) Empowering a board to make a general levy in respect of a commodity: Levies by
board. Provided that no poll of producers shall be requested or taken on the question of the making of such general levy for any of the purposes set out in paragraphs (i), (ii), or (iii) of subsection two of section twenty-four of this Act.

Empowering a board to make particular levies in respect of a commodity in particular industries or sections of industries or any particular area or localities, and fixing the amount of such levies, whether on the same or on different bases, in respect to the different industries, operations, areas, or localities.

Providing, if deemed necessary, for the expenditure of the sums raised by any particular levies only in the interests of the particular industry or section of industry or district or locality upon the producers in which such levies were made:

Provided that before any particular levy is made in any industry, at the request in writing of at least one hundred producers in that industry, or such less number of such producers as may be prescribed, a poll of such producers shall be taken as prescribed, and if upon such poll the majority of votes is against the making of such levy no such levy shall be made upon the producers in that industry.

Prescribing

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Prescribing the basis or bases on which levies, whether general or particular, shall be made.

Providing methods of recovery or collection of any levies, whether general or particular, including the recovery or collection of any such levies from persons holding moneys to the credit of the producers liable to pay such levies.

Imposing fines not exceeding five pounds for non-payment of any such levies or moneys by producers or persons holding moneys to the credit of producers.

(h) the control and management and expenditure of the funds of the board.

(2) The regulations may fix a penalty, not exceeding in any case fifty pounds, for any breach thereof.

(3) All such regulations shall—

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

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