

MARKETING OF PRIMARY PRODUCTS (AMENDMENT) ACT.

Act No. 7, 1934.

George V,
No. 7, 1934.

An Act to confer additional powers upon Marketing Boards; to validate certain matters; to amend the Marketing of Primary Products Act, 1927-1931, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 2nd August, 1934.]

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:—

Short title
and citation.

1. (1) This Act may be cited as the "Marketing of Primary Products (Amendment) Act, 1934," and shall be read and construed with the Marketing of Primary Products Act, 1927-1931, as amended by the Dried Fruits Act, 1933.

(2) The Marketing of Primary Products Act, 1927-1931, as so amended is in this Act referred to as the Principal Act.

(3)

Marketing of Primary Products (Amendment) Act.

17

(3) The Principal Act, as amended by this Act, may be cited as the Marketing of Primary Products Act, 1927-1934.

No. 7, 1934.

2. The Principal Act is amended as follows:—

Amendment
of Act
No. 34,
1927.

(a) by inserting next after section three the following new section:—

New s. 3A.

3A. Without affecting the full operation of section three of this Act the invalidity or partial invalidity of any provision contained or inserted in this Act at any time before or after the commencement of the Marketing of Primary Products (Amendment) Act, 1934, shall not be deemed to have affected or to affect the validity or force of such provision in so far as and in such cases as the same is not invalid or the validity or force of any other provision contained or inserted in this Act as aforesaid.

Further
saving and
validation.

(b) (i) by inserting at the end of subsection eight of section five the following proviso:—

Sec. 5 (8).

Provided always (and without detracting from the generality of sections three and 3A of this Act) that such proclamation under this subsection shall not affect any portion of such commodity as is the subject of trade or commerce between the States or as is required by the producers thereof for the purposes of trade or commerce between the States or intended by the producers thereof to be used for such trade or commerce.

(Proclama-
tion not to
affect com-
modity in
certain
cases.)

(ii) by inserting in subsection nine of the same section after the words "as the case may be" the words "and subject to the proviso to subsection eight of this section";

Sec. 5 (9).

(Effect of
proclama-
tion.)

(c) by inserting in section ten after the word "commodity" where firstly occurring the words "vested in or delivered or to be delivered to it";

Sec. 10.

(Powers of
sale, etc.)

(d) (i) by inserting in subsection one of section eleven after the word "commodity" where secondly occurring the words "so vested";

Sec. 11 (1).

(Delivery of
commodity.)

(ii)

Marketing of Primary Products (Amendment) Act.

No. 7, 1934.

Sec. 11.
Substituted
subsecs. (2), (3).Voluntary
deliveries
to board.

(ii) by omitting subsections two and three of the same section and by inserting in lieu thereof the following subsections:—

(2) (a) Subject to this Act delivery of any of the commodity in respect of which a board has, before or after the commencement of the Marketing of Primary Products (Amendment) Act, 1934, been appointed (whether it came into existence after the appointment of the board or otherwise) may be tendered to the board by the producer thereof or by any person then entitled to sell or dispose thereof.

(b) Such tender shall be made at or within such time, at such place, and in such manner as the board may either generally or in any class of cases or in any particular case direct or as may be prescribed.

(c) Subject to this Act the board may accept delivery of any of the commodity so tendered and the commodity so delivered to and accepted by the board shall be deemed to be absolutely vested in and to be the 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 accordance with the provisions of this Act.

(d) This subsection shall not apply to such of the commodity as has previously been or become the property of the board or as has previously been duly tendered to the board under this Act and the acceptance of which has been refused by the board.

(3) Every producer who except in the course of trade or commerce between the States or save as exempted by or under this Act, sells, disposes of or delivers any of the commodity in respect of which a board has, before or after the commencement of the
Marketing

Certain
sales and
purchases
prohibited.

Marketing of Primary Products (Amendment) Act, 1934, been appointed, to a person other than the board, and every person other than the board who, except or save as aforesaid, buys, accepts or receives any of such commodity from a producer, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred pounds.

No. 7, 1934.

This subsection shall not apply to such of the commodity as has been duly tendered to the board under this Act and the acceptance of which has been refused by the board.

- (iii) by inserting at the end of the same section the following new subsections:—

Sec. 11.
New subsecs.
(8) and (9).

(8) The Governor may from time to time by proclamation suspend for the period mentioned in any such proclamation the operation of any proclamation made under subsection eight of section five and/or the operation of any of the provisions of this section in respect of any commodity or any part thereof.

Governor
to have
certain
powers to
suspend.

(9) Subsections one, two and three of this section shall not apply to a product produced outside the areas controlled by the board.

Limitation of
subsecs. (1),
(2) and (3).

- (e) (i) by inserting in section twelve after the word “ thereof ” the words “ or other person by or for whom the delivery is made under this Act, as the case may be ”;

Sec. 12.
(Consequen-
tial.)

- (ii) by inserting in the same section after the word “ producer ” where secondly occurring the words “ or other person as aforesaid ”;

- (f) (i) by inserting in subsection two of section fourteen after the word “ board ” where thirdly occurring therein the words “ or to the other person by or for whom the commodity was delivered to the board under this Act, as the case may be ”;

Sec. 14 (2).
(Consequen-
tial.)

(ii)

No. 7, 1934.

Sec. 15 (1).
(Issue of certificates and payment in connection with commodity delivered to board.)

- (ii) by inserting in the same subsection after the word "producer" where both secondly and thirdly occurring the words "or other person as aforesaid";
- (g) (i) by inserting in subsection one of section fifteen after the word "thereof" the words "or other person by or for whom such commodity was delivered to the board";
- (ii) by inserting at the end of the same subsection the words "until such time as the parties claiming to be interested advise the board, in writing, as to the manner in which and the persons to whom the certificate is to be issued";

Sec. 16.
(Construction of section.)

- (h) (i) by inserting at the beginning of subsection one of section sixteen the words "Subject to this Act";
- (ii) by inserting at the beginning of subsection two of the same section the words "Subject as aforesaid";

Sec. 17.
(Refusal to carry.)

- (i) by inserting in section seventeen before the words "the Railway Commissioners" the words "but subject to this Act";

Sec. 19.
New subsec.
(1A).

Obligations of person making delivery to give notice.

- (j) by inserting after subsection one of section nineteen the following new subsection:—

(1A) The provisions of subsection one of this section shall apply to every person by or for whom any of the commodity is delivered to the board under this Act in respect of the commodity delivered by him and in addition the notice to be given by him when delivering the commodity to the board shall contain particulars as to all other persons interested in any way in such commodity and the nature of their respective interests therein.

Sec. 22.
(Further protection to Crown and boards.)

- (k) (i) by inserting in section twenty-two before the word "damage" the words "compensation or debt or for or in respect of any";
- (ii) by inserting in the same section after the word "sustained" where secondly occurring the words "at any time before or after the

the commencement of the Marketing of Primary Products (Amendment) Act, 1934 ”;

No. 7, 1934.

(iii) by inserting at the end of the same section the words “ or of the delivery to or receipt, acceptance or disposal by a board of any of the commodity ”;

(1) (i) by inserting in subparagraph (d) of paragraph (ii) of subsection one of section thirty-four after the word “ producer ” the words “ or other person ”;

Sec. 34 (1)
(ii) (d).
(Regulations.)

(ii) by inserting in the same subparagraph after the word “ him ” the words “ or any other person.”

3. The Principal Act is further amended as follows:—

Further amendment of Act No. 34, 1927.

(a) by omitting from the matter relating to Part IV in section two the words “ Director of Marketing ” and by inserting in lieu thereof the words “ Official Marketing Information ”;

Sec. 2.
(Division into Parts.)

(b) by inserting in section four at the end of the definition of the words “ Deliver to the board ” the words “ and ‘ delivered to the board ’ has a corresponding meaning ”;

Sec. 4.
(Interpretation.)

(c) by omitting from subsection three of section seven the words “ A board shall not be so constituted as to consist of other than the numbers of elected and appointed members respectively stated in subsection one of this section ”;

Sec. 7.
(Board.)

(d) by omitting from paragraph (v) of section ten the words and symbols “ (including in respect of levies) ”;

Sec. 10 (v).
(Delivery of commodity produced outside board's area.)

(e) (i) by inserting in subsection three of section fourteen after the word “ marketing ” the words “ or treatment ”;

Sec. 14.
(Deduction from proceeds of sale.)

(ii) by inserting at the end of the same section the following new subsection:—

New s. 14
(5).

(5) (a) Notwithstanding anything contained in this section but subject otherwise to the provisions of this Act, a board may out

Further deductions from proceeds of sale of commodity.

No. 7, 1934.

out of the proceeds of sale of the commodity delivered to the board during or covering any period of time prescribed in pursuance of subsection two of this section deduct for the purpose of liquidating any liability incurred during or covering any such prior period whether before or after the commencement of the Marketing of Primary Products (Amendment) Act, 1934, or for such other prescribed purposes such sum of money as may be prescribed or as may be determined in a prescribed manner.

(b) Any sum or sums of money so deducted may be used by the board for any one or more of the purposes prescribed by or under paragraph (a) of this subsection (whether that or those for which the moneys were deducted or not) and until such moneys shall be used for one or more of such purposes, the board may invest such sum or sums or any part thereof in any one or more of the investments in which trustees are authorised to invest trust funds by virtue of the provisions of the Trustee Act, 1925, and any amendment thereof or on deposit with the Colonial Treasurer or with the bankers for the time being of the board, with power from time to time to realize, deal with or vary any such investments.

Sec. 18 (1).
(Revision.)

(f) (i) by omitting from subsection one of section eighteen the figures and words " 1898, or the Co-operation, Community Settlement, and Credit Act, 1923," and by inserting in lieu thereof the words and figures " of 1898 or the Co-operation Act, 1923-1932 ";

(Extension
of relief to
a liquida-
tor.)

(ii) by inserting in the same subsection after the word " authority " the words " or any liquidator appointed for the purpose of winding up the affairs of the board ";

(Revision.)

(iii) by inserting in subsection three of section eighteen after the words " Mortgages Act " the word " of ";

(g)

- (g) (i) by inserting in section twenty after the word "board" where firstly occurring the words "or a liquidator appointed for the purpose of winding up the affairs of the board"; No. 7, 1934.
Sec. 20.
(Extension of relief to a liquidator.)
- (ii) by inserting in paragraph (a) of the same section after the word "producer" the words "or other person";
- (iii) by omitting from the same paragraph the words "their authority" and by inserting in lieu thereof the words "the authority of either of them as the case may be";
- (iv) by inserting in the same section after the word "board" where secondly and thirdly occurring the words "or liquidator as aforesaid";
- (v) by inserting in paragraph (b) of the same section after the word "producer" the words "or other person delivering or causing to be delivered such commodity";
- (vi) by inserting in paragraph (c) of the same section at the end thereof the words "or of any person entitled or claiming to be entitled as mentioned in paragraph (b) of this section";
- (h) by inserting in section twenty-one after the word "board" wherever therein occurring the words "or liquidator as aforesaid"; Sec. 21.
(Extension of section to liquidator.)
- (i) (i) by omitting from subsection one of section twenty-three the words "true and regular accounts to be kept" and by inserting in lieu thereof the words "proper books of account to be kept, and shall cause to be entered therein true and regular accounts"; Sec. 23.
(Accounts of boards.)
- (ii) by omitting subsections two, three and four of the same section and by inserting in lieu thereof the following subsections:—
- (2) Every board shall exhibit statements of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the board at such places and at such times as may be prescribed.

Marketing of Primary Products (Amendment) Act.

No. 7, 1934.

(3) The accounts of each board shall be audited by the Auditor-General, who shall have in respect thereof all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts.

(4) Towards defraying the cost of such audit each board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Colonial Treasurer may decide.

Sec. 24.
(Levy.)

(j) by omitting section twenty-four;

Sec. 33
(Certificate
to levy.)

(k) by omitting section 33A;

Sec. 34 (1) (ii).
(Regulations.)

(l) by omitting subparagraph (g) of paragraph (ii) of subsection one of section thirty-four.

Validation
of certain
transactions
of Rice
Board.

4. (1) The Rice Marketing Board for the State of New South Wales (in this section called the Rice Board) shall have and shall be deemed to have had power and authority to borrow from the Bank of New South Wales by way of overdraft to the extent of the amounts mentioned in the Deeds of Covenant and Charge made between the Rice Board of the first part, John Lyne, James Oswald Doyle, William Rupert Cater, Alan Dewar Malcolm, Alfred Ernest Bowmaker, Joseph Gleeson and William Nulty, of the second part, and the Honourable Bertram Sydney Barnsdale Stevens, Colonial Treasurer, for and on behalf of His Majesty and the Government of the said State, of the third part, dated the nineteenth day of May, one thousand nine hundred and thirty-three, and the eighteenth day of May, one thousand nine hundred and thirty-four, and the Rice Board and the said parties of the second part shall have and shall be deemed to have had power and authority to execute in favour of the Colonial Treasurer the aforesaid Deeds of Covenant and Charge.

(2) The charges in favour of the Colonial Treasurer contained or referred to in the said Deeds of Covenant and Charge, and all the powers, rights and remedies in favour of the Colonial Treasurer contained

or

or referred to or implied in such deeds shall be and be deemed to have been valid and enforceable as if the same were herein enacted and set forth at length.

5. (1) The Egg Marketing Board for the Counties of Cumberland and Northumberland and the Shires of Nattai and Wollondilly (in this section called the Egg Board) shall have and shall be deemed to have had power and authority to borrow from the Commonwealth Bank of Australia by way of overdraft to the extent of the amount mentioned in the Deed of Covenant and Charge made between the Egg Board of the first part and Alfred George Crooke, George Nicholas Mann, Julius Edward Tegel, Charles Alfred Le Maistre Walker, Edward Bernard McGarry of the second part, and the Honourable Bertram Sydney Barnsdale Stevens, the Colonial Treasurer of the said State, for and on behalf of His Majesty the King and the Government of the said State of the third part, dated the twenty-ninth day of May, one thousand nine hundred and thirty-four, and the Egg Board, and the said parties of the second part shall have and shall be deemed to have had power and authority to execute in favour of the Colonial Treasurer the aforesaid Deed of Covenant and Charge.

Validation
of certain
transactions
of Egg
Board.

(2) The charges in favour of the Colonial Treasurer contained or referred to in the said Deed of Covenant and Charge, and all the powers, rights and remedies in favour of the Colonial Treasurer contained or referred to or implied in such deed shall be and be deemed to have been valid and enforceable as if the same were herein enacted and set forth at length.

6. (1) Subject to this section the agreements entered into after the first day of May, one thousand nine hundred and thirty-three, and before the commencement of this Act—

Certain
agreements
by Rice
Board and
Egg Board.

- (a) by the Rice Marketing Board for the State of New South Wales with a producer or licensee of the commodity for which such board was appointed;
- (b) by the Egg Marketing Board for the Counties of Cumberland and Northumberland and the Shires of Nattai and Wollondilly with a producer of the commodity for which such board was appointed

for

for

Marketing of Primary Products (Amendment) Act.

No. 7, 1934.

for or with respect to the delivery of the commodity to the board shall be deemed to be valid.

(2) On and after the day or days respectively specified in a proclamation or proclamations by the Governor in the Government Gazette the agreements validated by subsection one of this section and referred to in such proclamation or proclamations shall cease and be determined, and notwithstanding the issue of any previous proclamations, the Governor may issue a proclamation or proclamations under subsection eight of section five of this Act vesting in any board the commodity in respect of which it has been appointed, and thereupon any such proclamation shall take effect and be operative and supersede any prior proclamations vesting such commodity in such board under the said subsection eight of section five.

Amendment
of Act No. 19,
1928, s. 2.
(Revision.)

7. (1) The Marketing of Primary Products (Amendment) Act, 1928, is amended by omitting from section two subparagraph (iii) of paragraph (d), and paragraphs (f) and (j).

Amendment of
Act No. 3, 1930,
ss. 3, 4 and 6.
(Revision.)

(2) The Marketing of Primary Products (Amendment) Act, 1930, is amended by omitting subparagraphs (ii) and (iii) of paragraph (c) of section three, paragraphs (b) and (d) of section four and subparagraphs (iii), (iv) and (v) of paragraph (a) of section six.

Amendment
of Act No. 11,
1931.

(3) The Marketing of Primary Products (Amendment) Act, 1931, is amended—

Sec. 2.
(Revision.)

(a) by omitting subparagraph (iii) of paragraph (e) of section two;

(b) by inserting in subparagraph (iii) of paragraph (g) of the same section after the word "notice" the words "where fourthly occurring."

(4) Paragraph (b) of subsection three of this section shall be deemed to have commenced on the seventeenth day of March, one thousand nine hundred and thirty-one.

ROYAL