

## DRIED FRUITS ACT.

Act No. 7, 1939.

**An** Act to make provision for the regulation of the dried fruits industry; to reconstitute the New South Wales Dried Fruits Board; to provide for the registration of packing houses; to repeal the Dried Fruits Act, 1933; to make consequential amendments of the Marketing of Primary Products Act, 1927-1938, and certain other Acts; and for purposes connected therewith. [Assented to, 4th August, 1939.]

George VI.  
No. 7, 1939.

**B**E 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.

**1.** (1) This Act may be cited as the "Dried Fruits Act, 1939." Short title.

(2)

**Dried Fruits Act.****No. 7, 1939.**Commence-  
ment.Division  
into Parts.

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

(3) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—THE DRIED FRUITS BOARD.

PART III.—FINANCIAL.

PART IV.—PACKING HOUSES.

PART V.—MARKETING OF DRIED FRUITS.

PART VI.—MISCELLANEOUS.

Repeal  
and savings.  
cf. Act No.  
21, 1933,  
ss. 2, 3.

**2.** (1) The Dried Fruits Act, 1933, is hereby repealed.

(2) The repeal of the Dried Fruits Act, 1933, shall not operate to break the continuity of the existence of the body corporate known as the New South Wales Dried Fruits Board which was constituted under that Act or the Acts repealed by that Act, but that body corporate shall continue notwithstanding such repeal.

(3) (a) All persons appointed or employed under the provisions of the Dried Fruits Act, 1933, and holding office at the commencement of this Act shall continue to hold office and shall be deemed to have been appointed or employed under the provisions of this Act.

(b) All persons authorised under the provisions of the Dried Fruits Act, 1933, to do any acts or things shall, where the authority is still in force at the commencement of this Act, be deemed to have been authorised under the provisions of this Act.

(c) Any agreement made under the provisions of the Dried Fruits Act, 1933, for the utilisation of the services of any officer, inspector or servant of the Commission, and in force at the commencement of this Act, shall be deemed to have been made under the provisions of this Act.

(4) All regulations made under the provisions of the Dried Fruits Act, 1933, and in force immediately before the commencement of this Act, shall, to the extent to which they are not inconsistent with this Act, continue in force but may be amended or repealed by regulations made under this Act.

(5)

(5) All levies, fees, allowances, charges and expenses payable, and all penalties, incurred under the provisions of the Dried Fruits Act, 1933, and payable or incurred at the commencement of this Act shall be deemed to be payable and to have been incurred respectively under the corresponding provisions of this Act.

(6) Any act, matter or thing commenced or any right or privilege acquired or any liability, civil or criminal, obligation, penalty or punishment incurred, under the authority of the Dried Fruits Act, 1933, and commenced, acquired or incurred before the commencement of this Act shall be deemed to have been commenced, acquired, or incurred, as the case may be, under the authority of this Act.

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

**3.** In this Act unless inconsistent with the context or subject-matter—

Interpreta-  
tion.

Act No. 21,  
1933, s. 4.

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

“Buy” includes barter exchange and agree to buy barter or exchange; and words derived therefrom have a corresponding interpretation.

“Chairman” means chairman of the Board.

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

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

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

“Drawback fruit” means dried fruits returned to the grower thereof for his domestic use by the owner of the packing house to which the same were sent to be packed.

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

“Dried

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“Dried fruits” means dried currants, dried sultanas, lexias, dried apricots, dried nectarines, dried peaches, dried pears, dried prunes, and such other fruits that have been dried as are declared by the regulations to be dried fruits for the purposes of this Act; and all such fruits shall be deemed to be dried for the purposes of this interpretation if they are completely dried or are in the process of being dried or have been or are being subjected to any further treatment or process or action.

“Dried prunes” means dried prunes produced from the following varieties of prunes only:—D’Agen, Robe de Sargent, Splendour, Old French (sometimes known as Goulburn Valley), Felleberg, Imperial, Sugar; and includes such dried prunes when packed in syrup.

“Dried sultanas” means dried sultanas produced solely from sultana grapes.

“Dried tree fruits” means dried apricots, dried nectarines, dried peaches, dried pears, dried prunes and such other dried fruits as are declared by the regulations to be dried tree fruits for the purposes of this Act.

“Dried vine fruits” means dried currants, dried sultanas, lexias and such other dried fruits as are declared by the regulations to be dried vine fruits for the purposes of this Act.

“Foreign substance” means dirt gravel sand stalks stones insects and insect refuse and any other foreign matter (whether organic or inorganic) on or in dried fruits.

“Freshness” in relation to dried fruits means that the dried fruits are the product of the latest crop or that the condition of the dried fruits has not been materially impaired by age or any other cause.

“Grade” has relation to appearance, colour, cleanliness, flavour, freshness, ripeness, kind, maturity, number, quality, size, form, soundness, texture, variety and weight of dried fruits.

“Grower”

“Grower” means person who is engaged in the production of dried fruits.

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

“Lexias” means dipped lexias produced from the following varieties of grapes:—Waltham Cross (sometimes known as Malaga), Gordo Blanco, Muscat of Alexandria.

“Member” means member of the Board.

“Package” includes every means by which dried fruits for carriage or for storage or for sale may be cased, covered, enclosed, contained or packed; and “pack” and words derived therefrom have a corresponding interpretation.

“Packing house” means any building erection or other place whatsoever in which or where dried fruits are prepared, stemmed, processed, graded, sorted or packed whether such building or erection or place is or is not used for any other purpose.

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

“Regulations” means regulations made under this Act.

“Season” means—

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

“Secretary” means the secretary of the Board.

“Sell”

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“Sell” includes barter, exchange, agree to sell barter or exchange, offer or expose for sale, have in possession for sale, receive send forward or deliver for or on sale, and cause suffer or attempt any of such acts or things; and words derived therefrom have a corresponding interpretation.

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

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

“The Commission” means the Water Conservation and Irrigation Commission.

“Year” means calendar year.

Power to  
Governor  
to proclaim  
dried fruits.  
Act No. 21,  
1933, s. 5.

**4. (1) The Governor may by the regulations—**

- (a) declare any dried fruits to be dried fruits for the purposes of this Act;
- (b) declare any such dried fruits to be dried vine fruits or dried tree fruits for the purposes of this Act; and
- (c) revoke amend or vary any regulation made under this section, and any regulation so amended or varied shall take effect accordingly.

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

**(2) The Marketing of Primary Products Act, 1927-1938, is amended—**

- (a) by omitting from the definition of “Product” in section four the words “dried currants, dried sultanas, dried lexias”;
- (b) by inserting at the end of the same definition the words “or any dried fruits to which the Dried Fruits Act, 1939, for the time being applies.”

**PART II.****THE DRIED FRUITS BOARD.**

New South  
Wales Dried  
Fruits Board.  
cf. Act No.  
21, 1933, s. 9.

**5. (1) For the purposes of this Act there shall be a Board to be called the “New South Wales Dried Fruits Board” constituted as hereinafter provided.**

(2)

(2) The Board shall be a body corporate under the name of the "New South Wales Dried Fruits Board" with perpetual succession and a common seal and may sue and be sued in its corporate name and shall for the purposes of and subject to the provisions of this Act be capable of acquiring, holding, leasing, taking on lease, exchanging, disposing of or otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(3) The Board shall consist of five members of whom— Constitution of Board.

- (a) one shall be appointed from time to time by the Governor and shall be chairman;
- (b) one shall be elected by growers producing dried vine fruits from fruits grown by them on land situated within the irrigation areas known respectively as Yanco No. 1, Yanco No. 2 and Mirrool No. 1 in the State of New South Wales and within any irrigation area which may be constituted of lands within the State of New South Wales adjoining or adjacent to such first-mentioned irrigation areas;
- (c) one shall be elected by growers producing dried vine fruits from fruits grown by them on land situated within the State of New South Wales elsewhere than within the irrigation areas referred to in paragraph (b) of this subsection;
- (d) one shall be elected by growers producing dried tree fruits from fruits grown by them on land situated within the counties of Forbes, Monteagle and Harden in the State of New South Wales;
- (e) one shall be elected by growers producing dried tree fruits from fruits grown by them on land situated within the State of New South Wales elsewhere than within the counties of Forbes, Monteagle and Harden.

(4) A person shall not be qualified for election as a member of the Board unless his name is included in the roll of growers.

(5)

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Term of  
office of  
existing  
members.

(5) Subject to this Act—

- (a) the appointed member of the Board in office immediately before the commencement of this Act shall continue to be the appointed member and to be the chairman of the Board; and
- (b) the elected members of the Board in office immediately before the commencement of this Act shall continue to hold office until the last day of February, one thousand nine hundred and forty.

Elections.  
cf. Act No.  
4594 (Vict.),  
s. 6, and  
Act No. 21,  
1933, s. 14.

**6.** (1) All elections under this Act shall be conducted and the result thereof certified in the prescribed manner and shall be held at such times as are prescribed and under the direction of such returning officers as are appointed by the Governor.

(2) For the purposes of such elections a roll of growers shall be prepared and revised in the manner and at the times prescribed.

Subdivision  
of roll of  
growers.

(3) The roll of growers shall be divided into divisions, and each division shall consist of two parts, as follows:—

## Division I.—Dried Vine Fruits.

Part A.

Part B.

## Division II.—Dried Tree Fruits.

Part A.

Part B.

(4) (a) In Part A of Division I there shall be entered the names of growers producing dried vine fruits from fruits grown by them on land situated within the irrigation areas known respectively as Yanco No. 1, Yanco No. 2 and Mirrool No. 1 within the State of New South Wales and in any irrigation area which may be constituted of lands within the State of New South Wales adjoining or adjacent to such first mentioned irrigation areas.

(b)

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(b) In Part B of Division I there shall be entered the names of growers producing dried vine fruits from fruits grown by them on land situated within the State of New South Wales elsewhere than within the irrigation areas referred to in paragraph (a) of this subsection.

(c) In Part A of Division II there shall be entered the names of growers producing dried tree fruits from fruits grown by them on land situated within the counties of Forbes, Monteagle and Harden in the State of New South Wales.

(d) In Part B of Division II there shall be entered the names of growers producing dried tree fruits from fruits grown by them on land situated within the State of New South Wales elsewhere than within the counties of Forbes, Monteagle and Harden.

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

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

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

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

(6) No grower shall have his name entered in the roll of growers unless—

- (a) during the then current season or one of the two preceding seasons he has produced more than five hundredweights of dried vine fruits; or
- (b) during the then current season or each of at least three of the five preceding seasons he has produced more than five hundredweights of dried tree fruits.

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(7) No person shall vote at any such election unless his name is included in the roll of growers.

General elections.  
Act No. 21,  
1933, s. 9  
(4).

**7.** (1) During the month of February, one thousand nine hundred and forty, and in the month of February in each third year thereafter a general election of members shall be held.

Term of elected members.

(2) The members elected at any such general election shall take office upon the first day of March in the year in which the election is held and subject to this Act shall cease to hold office on the last day of February in the third year after the year in which they were elected but shall be eligible for election for an ensuing term.

Extraordinary elections.  
*Ibid.* s. 9  
(6).

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

Provided that if the vacancy occurs within six months of the end of such term the Governor may appoint a person to fill the vacancy, and a person so appointed shall have the same powers rights and duties as an elected member.

(2) Subject to this Act a person so elected or appointed shall hold office during the remainder of his predecessor's term of office but shall be eligible for election for an ensuing term.

Appointed member.  
*Ibid.* s. 9 (2).

**9.** The appointed member of the Board shall subject to this Act hold office until his appointment is terminated by the Governor.

Removal from office.  
*Ibid.* ss. 9  
(5), 10.  
Vacancies.

**10.** (1) The Governor may remove any member from office for misbehaviour or incompetence or neglect of his duties.

(2) The office of any member shall become vacant if he—

- (a) resigns his office by writing under his hand addressed to the Minister;
- (b) without the permission of the Board or of the chairman fails to attend three consecutive meetings of the Board at which he is entitled to vote;
- (c) is removed by the Governor for misbehaviour or incompetence or neglect of his duties;

(d)

- (d) becomes bankrupt or assigns his estate for the benefit of his creditors; No. 7, 1909.
- (e) is convicted of a felony or misdemeanour; or
- (f) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898.

(3) No act or proceeding of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done taken or commenced there is a vacancy in the office of any member. Saving of proceedings &c. of Board.

**11.** (1) The Governor may appoint a deputy to act for any member during his absence. Deputy members.

(2) A deputy so appointed shall have the same powers rights and duties as the member in whose place he was appointed. Act No. 21, 1933, s. 9 (7) (8).

**12.** The members of the Board shall be paid such fees and allowances as are prescribed. Payment of allowances to members. *Ibid.* s. 9 (9).

**13.** (1) Meetings of the Board shall be called by the secretary at the direction of the chairman or upon the requisition of any two of the elected members of the Board. Meetings. *Ibid.* s. 12.

(2) (a) The Board may without a meeting being held arrive at a decision in relation to any question or matter by the members indicating in writing addressed to the secretary their respective individual decisions. Decision without meeting.

(b) Each such individual decision shall be regarded as the vote of the member as if given at a meeting of the Board and shall be kept by the secretary in the Board's records for reference purposes.

(3) The chairman shall preside at meetings of the Board at which he is present. Chairman.

In the absence of the chairman from any meeting the members present shall elect one of their number to preside at the meeting.

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

- (a) solely in connection with dried vine fruits, only the chairman and the two members of the Board elected by the growers of dried vine fruits shall be entitled to vote;

(b)

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- (b) solely in connection with dried tree fruits only the chairman and the members of the Board elected by the growers of dried tree fruits shall be entitled to vote;
- (c) of a general nature, all five members of the Board shall be entitled to vote.

**Quorum.**

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

- (a) solely in connection with dried vine fruits, any two of the members entitled to vote at such meetings shall form a quorum;
- (b) solely in connection with dried tree fruits, any two of the members entitled to vote at such meetings shall form a quorum;
- (c) of a general nature, any three members (of whom at least one shall be a member elected by the growers of dried vine fruits and at least one shall be a member elected by the growers of dried tree fruits) shall form a quorum.

Any meeting at which a quorum is present shall have all the powers and authorities conferred on the Board by this Act.

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

(7) Meetings of the Board shall be conducted and recorded as prescribed.

**Officers.**  
cf. (S.A.)  
No. 2181,  
s. 17.

**14.** (1) The Board with the approval of the Minister may appoint a secretary and any inspectors or other officers whom it considers necessary to enable it to carry out its duties and functions.

Act No. 21,  
1933, s. 15  
(3).

(2) The Commission may allow the services of any of its officers, inspectors, and servants to be utilised by the Board as secretary to the Board and otherwise on such terms and conditions as may be agreed upon between the Commission and the Board, and in such case such

such officers, inspectors and servants shall remain employees of the Commission, and no accrued or accruing rights of such officers, inspectors and servants shall thereby be prejudiced, but shall remain in full force and effect as if their services were not utilised by the Board.

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(3) The Board may authorise any persons to do such acts and things not inconsistent with this Act as it considers necessary for carrying out this Act.

(4) The salaries, wages or other remuneration of officers of the Board shall be fixed by the Governor.

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### PART III.

#### FINANCIAL.

**15.** (1) Before the last day of February in each year the Board shall prepare an estimate of the probable expenditure for that year to be incurred in the administration of this Act and in carrying out the powers and duties of the Board.

Estimate of expenditure. cf. Act 4594 (Vict.), s. 15.

(2) Such estimate shall be submitted to the Minister for approval and shall have no force or effect unless approved by the Governor.

(3) Towards the expenditure so estimated there shall be contributed in the case of every registered packing house by the person in whose name the packing house is registered such sum as is determined by the Board in accordance with the regulations.

Contributions towards expenditure.

(4) Such sum shall not in the case of any packing house exceed an amount equal to one thirty-second of a penny per pound of the quantity of dried fruits sold from the packing house and also of the quantity of dried fruits forwarded therefrom for purposes of trade or sale in the next preceding year:

Provided that if any packing house has not been in operation for a period of one year or if no return under this section or an insufficient return has been made in respect of any packing house the sum to be contributed in respect of such packing house shall be a sum determined by the Governor.

(5)

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Payment of  
contri-  
butions.

(5) Every sum to be contributed as aforesaid shall be paid to the persons at the times in the instalments and in the manner prescribed.

Recovery of  
contri-  
butions.

(6) If any such sum or any instalment thereof is not paid as and when the same becomes payable the amount thereof may be recovered in any court of competent jurisdiction by the Minister or some person authorised by him in writing.

Returns.

(7) (a) The person in whose name any packing house is registered shall, as and when prescribed make such returns and supply such information as is required for the purposes of this section.

Penalty.

(b) Every such person who fails to make such a return or to supply such information as and when prescribed or who makes any false return or supplies any false information shall be guilty of an offence against this Act.

Account.

**16.** All contributions paid or recovered under the last preceding section and all other moneys received by the Board under this Act shall be paid into an account in Special Deposits Account.

Purposes for  
which  
account is  
available.

**17.** The moneys in the said account shall be made available to the Board for the purpose of meeting all expenditure incurred in carrying out the powers and duties of the Board or in the administration of this Act including the payment of the fees and allowances of members and of salaries, wages or other remuneration of officers of the Board.

Accounts  
to be kept.  
Act No. 21,  
1933, s. 17.

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

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

(3)

(3) The Board shall as soon as practicable after the thirtieth day of June in each year furnish to the Minister statements of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board.

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

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

#### PART IV.

##### PACKING HOUSES.

**19.** (1) All packing houses shall be registered under this Act.

Registration of packing houses. cf. Act No. 21, 1933, s. 20.

(2) Application for registration of a packing house shall be made annually as prescribed.

Applications for registration.

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

(4) A packing house may be registered to treat only such of the varieties of dried fruits referred to in the statement accompanying the application as are specified in the certificate of registration.

Restricted registration.

(5) The registration of a packing house shall expire on the thirty-first day of December next after it takes effect.

Expiry of registration.

(6) When a packing house has been registered, the registration thereof may at any time during the currency of the registration upon application in the prescribed form be transferred to any other person approved by the Governor.

Transfer of registration.

(7)

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&c. at dis-  
cretion of  
Governor.

(7) The granting renewal or transfer of the registration of any packing house shall be in the sole discretion of the Governor.

Fee for  
transfer and  
registration.

(8) Every application for registration or transfer of registration of a packing house shall be accompanied by the following fee:—

(a) For registration or for renewal of registration—One pound.

(b) For transfer of registration—Five shillings.

Transitory pro-  
vision as to  
registered  
packing sheds  
under Act No.  
21, 1933.

(9) Every building or erection which was immediately before the commencement of this Act a registered packing shed under the Dried Fruits Act, 1933, shall be deemed to be a registered packing house under this Act and shall continue to be such a registered packing house until such time as the registration of such building or erection as a packing shed under the Dried Fruits Act, 1933, would have expired if this Act had not been passed.

“Treat.”

(10) In this section “treat” means prepare stem process grade sort or pack.

Certificate of  
registration.  
Act No. 21,  
1933, s. 20  
(6).

**20.** (1) A certificate of registration shall be issued in respect of each registered packing house and shall state the name of the person in whose name the packing house is registered.

(2) Where the registration of a packing house is transferred a statement in the prescribed form of the transfer of the registration and of the name of the person into whose name the registration is transferred shall be endorsed on the certificate of such registration.

Offence to  
sell dried  
fruits not  
packed, &c.,  
in registered  
packing  
house.

**21.** (1) No person shall buy or sell any dried fruits unless the dried fruits have been packed in a registered packing house.

(2) No person shall buy or sell any dried fruits unless—

Act No. 4594  
(Vict.),  
s. 21.

(a) the dried fruits are packed and graded in accordance with the regulations; and

(b) the dried fruits are packed in packages which are of the size dimensions and materials prescribed and which are branded marked or labelled in accordance with the regulations.

(3)

(3) No person shall sell any fruits as dried fruits or as any variety of dried fruits unless such fruits have been packed in a registered packing house.

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Sale of fruit as "dried fruit," &c.

(4) The foregoing provisions of this section shall not apply—

Saving.

- (a) to a sale by a grower of dried fruits produced by such grower to the person in whose name a packing house is registered for the purpose of being processed or packed or to the buying thereof by such person from such grower;
- (b) to a sale of dried fruits by the person in whose name one packing house is registered to the person in whose name another packing house is registered for the purposes of being processed or packed or to the buying thereof by such last-mentioned person;
- (c) to a retail sale of dried fruits to a customer by a grocer storekeeper or other such retail seller or to the retail buying thereof by such customer from such grocer storekeeper or seller; or
- (d) to a sale of dried fruits to the owner of a winery or distillery for the purpose of manufacturing wine or spirits or to the buying thereof by such owner.

22. (1) Except under such conditions as are prescribed dried fruits produced from currant grapes shall not be—

Prohibition of sale of currants where more than five per cent of berries contain seed.

- (a) bought or sold; or
- (b) removed from a packing house for the purpose of being bought or sold—

in any case where more than five per centum of the berries contain seed.

Act No. 21, 1933, s. 38.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

23. (1) No person shall use or occupy any premises or other place whatsoever for the purpose of stemming, processing, grading, sorting, or packing any dried fruits unless those premises are or that place is for the time being registered under this Act as a packing house.

Penalty for using unregistered packing house.

cf. Act No. 4594 (Vict.), s. 23.

(2) Every person who contravenes or fails to comply with the foregoing provisions of this section shall

be

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be liable to a penalty of not more than one hundred pounds and to an additional penalty of ten pounds for every day on which the premises are or the place is used or occupied in contravention of this section, and the court may order that the plant and machinery used at the premises or place, in respect of the use of which the penalty is imposed, be forfeited to His Majesty.

Licensing of classers.

**24.** (1) The Board may, in accordance with the regulations, appoint graders of dried fruits and license classers of dried fruits.

(2) The Board may revoke any such license where it is satisfied that the holder thereof is unfitted for any reason to continue to hold the license.

Seizure of dried fruit illegally offered for sale.

Act No. 4594 (Vict.), s. 25.

**25.** Any dried fruits offered for sale or disposal which have not been packed in a registered packing house may upon an order in writing under the hand of the chairman be seized and detained, and a court of summary jurisdiction may, in addition to imposing any penalty for the sale of such dried fruits, order that any dried fruits so seized and detained shall be forfeited to His Majesty.

Removal of bad fruit from packing houses, &c.  
*Ibid.* s. 26.

**26.** An inspector may—

(a) prevent any dried fruits which are not in a fit condition for processing or packing from being received into a packing house or store; or

(b) order the removal from any packing house or store of any dried fruits which are not in a fit condition for processing or packing.

## PART V.

### MARKETING OF DRIED FRUITS.

As to marketing in New South Wales of dried fruits produced in New South Wales.  
*cf. Ibid.* s. 27.

**27.** (1) The Minister upon the recommendation of the Board may by notice published in the Gazette from time to time determine the maximum proportion of the dried fruits produced in New South Wales in any season which may be marketed within New South Wales otherwise than by way of sale to a winery or distillery for the purpose of manufacture of spirits or wine.

(2)

(2) If from any packing house a greater proportion of the dried fruits packed in such packing house, which were produced in the season to which such determination applies, than is permitted by such determination is marketed in New South Wales (otherwise than by way of sale to a winery or distillery for the purpose of manufacture of spirits or wine) the person in whose name such packing house is registered shall be guilty of an offence against this Act and for every such offence shall be liable to a penalty of not more than fifty pounds for each ton or part of a ton of such dried fruits marketed within New South Wales in excess of the maximum proportion which may be marketed within New South Wales in accordance with such determination.

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Penalty for marketing in New South Wales in excess of proportion determined.

28. (1) The Board may by notice in writing give to the person in whose name any packing house is registered any direction which the Board thinks proper to secure the observance of any determination made under the last preceding section.

Power to Board to give directions. Act No. 4594 (Vict.), s. 28.

(2) Any person who fails to comply with any direction given by the Board under this section shall be guilty of an offence against this Act.

29. The Board may from time to time—

- (a) make and carry out contracts with any person in respect of the purchase or sale of dried fruits produced in Australia;
- (b) by means of advertising or any other appropriate means encourage the consumption of dried fruits and create a greater demand therefor;
- (c) regulate by such means as are prescribed the removal of dried fruits from packing houses;
- (d) by appropriate means encourage the development of and generally foster the dried fruits industry;
- (e) make and carry out contracts or arrangements with Boards appointed under legislation in force in other States of the Commonwealth of Australia with objects similar to those of this Act or with packers or growers of dried fruits or with associations of packers or growers of dried fruits

General marketing powers of Board. *Ibid.* s. 29.

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fruits for concerted action in the marketing of dried fruits produced in Australia or for advertising or otherwise encouraging the consumption of such dried fruits or for taking or defending legal proceedings and for purposes incidental thereto; and

- (f) by appropriate means co-operate with Boards appointed under legislation in force in other States of the Commonwealth of Australia with objects similar to those of this Act in the regulation of the marketing of dried fruits and their disposal.

Powers  
under Com-  
monwealth  
Acts.

Act No. 21,  
1933, s. 19.

**30.** The Board may exercise any powers conferred upon it by or under any Act of the Parliament of the Commonwealth of Australia relating to dried fruits.

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**PART VI.**
**MISCELLANEOUS.***Annual Report.*

Annual  
report.

**31.** (1) As early as practicable in each year the Board shall prepare a report on its work for the preceding year.

(2) Such report shall be forwarded to the Minister, and a printed copy thereof shall be posted to every grower whose name appears on the roll of growers.

*Returns and Notices.*

Returns of  
dried fruits  
&c.

Act No.  
4594  
(Viet.),  
s. 32.

**32.** (1) The Board may by notice in writing require—

- (a) any persons who have or who at any time within the period of twelve months preceding such notice have had any dried fruits owned by them or in their disposal or under their control, to make returns of such dried fruits;

(b)

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- (b) the person in whose name any packing house is registered to furnish to the Board in writing any particulars with respect to the dried fruits which are or have been or are likely to be in the packing house for the purpose of being stemmed processed graded sorted or packed;
- (c) the person who is the owner of a dehydrator used for the dehydration of dried fruits to furnish in writing to the Board any particulars with respect to dried fruits which are being or have been or are likely to be dehydrated by such dehydrator during any period;
- (d) the owner of any winery or distillery to furnish in writing to the Board any particulars with respect to dried fruits which are or have been or are likely to be in or at such winery or distillery for use for manufacturing purposes or for sale.

(2) Every such notice shall specify the time within which the returns or particulars are to be made or furnished to the Board.

(3) Any person who fails to furnish returns or particulars in relation to any matter within his knowledge or under his control in accordance with a notice under this section within the time therein specified or who furnishes any untrue returns or particulars in relation to any such matter shall be liable to a penalty of not more than one hundred pounds. Penalty.

**33.** Any notice required or authorised by this Act or the regulations to be given to any person may be served personally on or sent by post addressed to such person at his usual or last known place of abode: Notices.  
Act No. 4594  
(Vict.),  
s. 33.

Provided that a notice sent by post to the person in whose name a packing house is registered or the owner of a dehydrator may be addressed to such person or owner at the packing house or dehydrator.

*Penalties.*

**34.** Any person who in any way resists, interferes with, hinders or obstructs any person in the exercise or discharge of any power, authority, duty or function under this Act shall be liable to a penalty of not more than one hundred Penalty for  
obstructing  
officers, &c.  
*Ibid.* s. 34.

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hundred pounds, or to imprisonment for a term of not more than six months.

Penalty for possession of dried fruits under standard or misrepresenting standard of dried fruits, &c.

Act No. 21, 1933, s. 36.

**35.** (1) While any regulation made under this Act fixing standards for different grades of dried fruits and the grade, description or grade mark for each grade is in force any person who—

- (a) packs any dried fruits in any package branded, marked or labelled with a grade description or grade mark which is not the grade description or grade mark fixed for dried fruits of the standard packed in the particular package;
- (b) has in his possession for sale any dried fruits contained in any package branded, marked or labelled with a grade description or grade mark which is not the grade description or grade mark fixed for dried fruits of the standard contained in the particular package;
- (c) by the use of any description or mark on a package containing dried fruits or on a label attached thereto represents such dried fruits to be of a particular standard whereas in fact such dried fruits are not of such standard;
- (d) by the use of any description or mark on a package or on a label attached thereto represents such package to contain a variety of dried fruits when it does not contain such variety; or
- (e) except by the authority of the Board alters the grade description or grade mark on any package or label or sells or permits to be sold any dried fruits in or from a package the grade description or grade mark on which or on a label attached to which has been so altered—

shall be liable to a penalty of not more than one hundred pounds.

(2) Where it is made to appear to the satisfaction of any inspector or officer of the Board or any member of the police force at the time of discovering an offence against this section—

- (a) that the person primarily liable therefor has used all due diligence to avoid a breach of this section; and

(b)

- (b) by what person the offence has been committed; No. 7, 1939.  
and
- (c) that it has been committed without the knowledge, consent or connivance of the person primarily liable—

the said inspector, officer or member of the police force shall proceed against the person whom he believes to be the actual offender without proceeding against the person primarily liable.

**36.** (1) Any person who contravenes or fails to comply with any of the provisions of this Act or the regulations shall be guilty of an offence against this Act. General penalties. Act No. 4594 (Vict.), s. 36.

(2) Every person guilty of an offence against this Act shall where no other penalty is expressly provided be liable to a penalty of not more than one hundred pounds.

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

(4) In any action, suit or proceedings the production of any return furnished under this Act or the regulations and purporting to be signed by or on behalf of any person liable to furnish returns under this Act or the regulations shall be prima facie evidence of the particulars or the information given in the return, and that such return was made by the person liable to furnish the same or on behalf of whom the return purports to be signed.

**37.** 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 the Commission or the Board or any member thereof or any officer or person acting in the execution of this Act or of the regulations made thereunder for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of the passing of this Act or of its operation or of anything done or purporting to be done under Indemnity. cf. Act No. 21, 1933, s. 37.

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under this Act or the regulations made thereunder, save only for the value of any dried fruits bought under the authority of this Act.

Judicial notice  
of seal.  
Act No. 4594  
(Vict.), s. 38.

**38.** All courts and all persons having by law or by consent of parties authority to hear, receive and examine evidence shall take judicial notice of the seal of the Board.

Regulations.  
Act No. 21,  
1933, s. 40.

**39.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular and without prejudice to the generality of the foregoing power for or with respect to—

- (a) the election of members of the Board including provision for voting by post and preferential voting and the preparation of rolls and the determination of what person shall be entitled to be enrolled in the event of land being held jointly or in common or in any manner otherwise than by one person as owner, or being held by a corporation or being held by some person who is not the actual occupier of the land;
- (b) the sale, buying, acquisition or marketing, or the arranging for the sale, buying, acquisition or marketing of dried fruits;
- (c) the branding, marking or labelling of packages containing dried fruits;
- (d) the fixing of standards for different grades of dried fruits and the grade description or grade mark for each grade;
- (e) the classing of dried fruits, and, generally, all matters relating to or arising from such classing, including (but without prejudice to the generality of the foregoing provision) the issue, renewal and revocation of licenses of classers of dried fruits; the powers, authorities, duties and functions of graders and classers of dried fruits; the prohibition of the employment as classers of dried fruits of persons who are not licensed under this Act; the settling of disputes arising from

- from the classing of dried fruits; the prohibition of the receipt into packing houses or the processing or packing in packing houses of dried fruits which have not been classified by a classer or grader; the effect of classification of dried fruits by a grader;
- (f) the limiting and controlling of selling and agency charges for the sale and distribution of dried fruits;
  - (g) the prohibition of the use of dehydrators unless the same are registered;
  - (h) the manner of effecting the registration and the renewal of the registration of packing houses and dehydrators, the issue of certificates of registration of packing houses and dehydrators, the transfer of the registration of packing houses and dehydrators, and the particulars to be furnished by applicants for any such registration, renewal or transfer;
  - (i) the situation, construction, operation, maintenance and cleansing of packing houses and dehydrators;
  - (j) the inspection, management and regulation of packing houses, drying grounds, stores and the machinery, appliances, implements, sweat boxes and utensils used in connection therewith, and the regulation and inspection of dehydrators;
  - (k) the conditions and times under and at which dried fruits may be received, prepared, stemmed, processed, graded, sorted, packed or stored at packing houses;
  - (l) the delivery to and removal from packing houses of dried fruits;
  - (m) the keeping and inspection of records and statistics of dried fruits received at and delivered from packing houses;
  - (n) the cleanliness and freedom from disease or disease carrying of persons engaged in the production, drying, manufacture, preparation, handling, stemming, processing, grading, sorting, packing, storage, carriage, delivery, or removal of dried fruits;

(o)

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- (o) the class, construction and condition of the packages in which dried fruits shall be packed and the methods of packing dried fruits;
- (p) the methods of drying dried fruits and the conditions under which dried fruits are dried, including the classes and types of dips to be used in connection with the drying of dried fruits and the materials and ingredients to be included in such dips;
- (q) the issue of receipt and release notes for dried fruits received at and released from a packing house;
- (r) the prevention and control at packing houses of diseases in dried fruits and the prevention at packing houses of the contamination of dried fruits by insect pests or foreign substances;
- (s) the hygienic treatment and storage of dried fruits;
- (t) the maximum percentage of water that may be added to dried fruits;
- (u) the powers, rights, duties and responsibilities of inspectors and the responsibilities of other persons in relation thereto; the accommodation to be provided for inspectors at packing houses.
- (v) the entry by inspectors at any reasonable time, for the purpose of inspecting dried fruits which are or are reasonably believed or suspected by an inspector to be in packing houses, dehydrators, stores, warehouses, bonds, shops or bakeries, on farms, drying grounds, drying racks, railway premises or wharves, in vehicles, railway trucks or boats, or at any other place whatsoever, and the facilities necessary to enable inspectors to make such inspections and keep records of the same, including the opening of packages, the taking of samples of the dried fruits, the inspection of books, accounts and records, and the taking of copies thereof or of entries therein;
- (w) the detention of dried fruits by inspectors or other persons authorized by the Board, including detention in cases where there is reasonable ground

ground for believing that with respect to the dried fruit there is or has been any contravention of or failure to comply with any of the provisions of this Act or the regulations;

- (x) the amount of drawback fruit to be issued, the packing of drawback fruit, and the branding of packages containing the same;
- (y) the particulars which may be required of persons who are or have been owners of dried fruits or who have or have had dried fruits in their disposal or within their control, owners of wineries and distilleries, owners of dehydrators and persons in whose names registered packing houses are registered;
- (z) requiring the information in any application, return, or other document to be verified by statutory declaration;
- (aa) the custody of the common seal of the Board, the use of such seal and the sealing of contracts documents and plans therewith; and
- (ab) forms for use under this Act (and all such forms or forms to the like effect shall be sufficient in law).

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

(3) Such regulations shall—

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

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