

**WINE GRAPE PROCESSING INDUSTRY ACT,
1979, No. 87**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 87, 1979.

**An Act to provide for the regulation of prices and improvement
of stability in the wine grape processing industry. [Assented
to, 16th May, 1979.]**

Wine Grape Processing Industry.

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

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Wine Grape Processing Industry Act, 1979".

Commence- **2.** (1) This section and section 1 shall commence on the
ment. date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrange-
ment.

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–5.

PART II.—NEGOTIATING COMMITTEES—ss. 6–8.

PART III.—ADMINISTRATION—ss. 9–11.

PART IV.—FIXING OF MINIMUM PRICES—ss. 12–17.

PART V.—CONTROL OF MINIMUM PRICES—ss. 18, 19.

PART VI.—SUPPLEMENTARY—ss. 20–26.

SCHEDULE 1.—PROVISIONS RELATING TO NEW SOUTH WALES NEGOTIATING COMMITTEES.

SCHEDULE 2.—PROVISIONS RELATING TO JOINT NEGOTIATING COMMITTEES.

SCHEDULE 3.—PROVISIONS RELATING TO WINE GRAPE PROCESSING INDUSTRY ARBITRATORS.

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4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

“accredited grader” means a person who has accreditation as a grader under section 10;

“Arbitrator”, in relation to a Negotiating Committee or a Joint Negotiating Committee, means a person appointed under section 9 (1) as the Wine Grape Processing Industry Arbitrator for the Negotiating Committee or Joint Negotiating Committee, as the case may be;

“controlled must” means must produced from controlled wine grapes;

“controlled wine grapes” means grapes that are controlled wine grapes by the operation of section 7 (3) (b);

“corresponding Act” means an Act of the Parliament of the State of Victoria specified in an order in force under section 8 (1) (a);

“corresponding Committee”, in relation to a Negotiating Committee, means a Committee constituted under a corresponding Act and specified in an order in force under section 8 (1) (b) to be the corresponding Committee in relation to that Negotiating Committee;

“Director-General” means the permanent head of the Department of Agriculture;

“grower” means a person who grows grapes or causes grapes to be grown whether by himself or jointly with another or others;

“inspector” means an inspector appointed under section 11 (1);

“Joint Negotiating Committee” means a Joint Negotiating Committee referred to in section 8;

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“must” means the juice of grapes, whether or not it contains skins, seeds or stalks or any other matter whether of the same or of a different kind;

“Negotiating Committee” means a Wine Grape Processing Industry Negotiating Committee referred to in section 7;

“processor” means a person who, in any one year, takes delivery of more than 5 tonnes of grapes or more than 3,500 litres of must and, from those grapes or that must, produces wine, grape juice, distillation spirit or brandy.

Act to
have full
effect.

5. A person is not competent to waive any benefit given to him by this Act.

PART II.

NEGOTIATING COMMITTEES.

Declaration
of con-
trolled
wine
grapes and
must.

6. (1) The Minister may, by an order made under his hand and published in the Gazette not later than 30th September in any year, declare—

(a) that on and from 1st January next following publication of the order—

(i) grapes of the varieties specified in the order, being grapes that are picked within an area of New South Wales so specified, shall be controlled wine grapes; and

(ii) must produced from those grapes shall be controlled must;

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- (b) that a Negotiating Committee is to be constituted under this Act to fix the minimum prices at which the controlled wine grapes and controlled must are to be sold to processors; and
- (c) that nominations of persons to become members of the Negotiating Committee may, at any time after publication of the order and before 1st November next following the date of publication of the order, be made to him in writing by growers, processors or organisations representing growers or processors, being in each case growers or processors who are eligible under clause 2 (1) of Schedule 1 to be appointed members of the Negotiating Committee.

(2) When an order has been published under subsection (1), the Minister shall forthwith cause a copy of the order to be published in such newspapers or other periodic publications circulating in New South Wales as he thinks fit.

7. (1) Where an order has been published under section 6 (1), the Minister may, by an instrument made under his hand and published in the Gazette within 21 days after 1st November next following the date of publication of the order—

Constitu-
tion of
Negotiating
Committee.

- (a) appoint persons to be members of a Wine Grape Processing Industry Negotiating Committee constituted for grapes, being grapes grown in the area of New South Wales, and of the varieties, specified in the instrument, so that the Negotiating Committee is constituted in accordance with clause 2 of Schedule 1; and
- (b) designate the name of the Negotiating Committee.

(2) The Minister may, from time to time, by further instruments made under his hand and published in the Gazette, appoint members to a Negotiating Committee so that it is constituted in accordance with clause 2 of Schedule 1.

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(3) Where an instrument has been published under subsection (1) appointing the members of a Negotiating Committee—

- (a) the members, for the time being, constitute a Wine Grape Processing Industry Committee having the name designated by the instrument;
- (b) on and from 1st January next following publication of the instrument, grapes of the varieties specified in the instrument, being grapes that are picked within the area of New South Wales so specified, are controlled wine grapes; and
- (c) must produced from those grapes is controlled must.

(4) Schedule 1 has effect.

8. (1) The Minister may, by order published in the Gazette, declare—

Joint
Negotiating
Committees.

- (a) an Act of the Parliament of the State of Victoria to be a corresponding Act for the purposes of this Act, if that Act provides for the constitution of a Committee or Committees empowered to determine the minimum prices to be paid for grapes of all or any of the varieties specified in an instrument published under section 7 (1) and sold in that State or in different parts thereof;
- (b) a Committee referred to in paragraph (a) and specified in the order to be, for the purposes of this Act, the corresponding Committee in relation to a Negotiating Committee referred to in section 7 and specified in the order; and

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- (c) the members of the 2 Committees referred to in paragraph (b) to be a Joint Negotiating Committee constituted for grapes grown in the area of New South Wales, and of the varieties, specified in the order, being grapes—
- (i) grown in the area of New South Wales that is specified in the instrument made under section 7 (1), that relates to the Negotiating Committee referred to in paragraph (b); and
 - (ii) of all or any of the varieties specified in that instrument.

(2) Schedule 2 has effect.

PART III.

ADMINISTRATION.

9. (1) A person may be appointed as the Wine Grape Processing Industry Arbitrator—

- (a) for a Negotiating Committee—by the Minister; or
- (b) for a joint Negotiating Committee—jointly by the Minister and the Minister administering the corresponding Act.

(2) The Minister shall cause notice of an appointment under subsection (1) to be published in the Gazette.

(3) Schedule 3 has effect.

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Accreditation of graders.

10. (1) A processor may apply to the Director-General to have any of his employees accredited as graders.

(2) The Director-General shall grant accreditation as a grader to an employee specified in an application made under subsection (1) if he is satisfied that the employee is competent to perform the functions of a grader under this Act.

(3) Where, under subsection (2), the Director-General grants accreditation as a grader to an employee, the Director-General shall cause the employer of that employee to be served personally or by post with notice of the grant of accreditation.

(4) Where the Director-General is satisfied that an accredited grader—

- (a) is not sufficiently competent to perform the functions of an accredited grader under this Act;
- (b) has made a determination for the purposes of section 17 (1) negligently or improperly; or
- (c) has contravened section 17 (5),

he may cause to be served personally or by post on the grader a notice stating that, when 14 days have expired after service of the notice, the Director-General intends to suspend the grader's accreditation for a period (not exceeding 6 months) specified in the notice or to revoke the grader's accreditation, as the case may be, on the ground specified in the notice, unless it has been established to his satisfaction that he should not do so.

(5) When 14 days have expired after a notice has been served under subsection (4) on an accredited grader, the Director-General may, after considering any submissions made to him during that period by the grader—

- (a) suspend the accreditation of the grader to which the notice relates for the period (not exceeding 6 months) specified in the notice; or

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(b) revoke the accreditation of the grader to whom the notice relates,

by a further notice served personally or by post on the grader..

(6) A person is not an accredited grader during any period for which his accreditation as a grader is suspended.

(7) The Director-General may, at any time during a period for which the accreditation of a person has been suspended under subsection (5), restore the accreditation by notice served personally or by post on the person stating that his accreditation as a grader is restored.

(8) The Director-General shall, by notice served personally or by post on an accredited grader, revoke the accreditation of the grader if the grader or his employer requests him so to do.

(9) A person ceases to be an accredited grader if he ceases to be an employee of the processor who applied under subsection (1) to have him accredited as a grader but nothing in this subsection prevents him from being accredited as a grader on the application of any processor by whom he is subsequently employed.

(10) Where the accreditation of a person as a grader has been suspended or revoked under subsection (5), the person may, within 7 days of the date of the service on him of notice under that subsection of the suspension or revocation, appeal to the Minister against the suspension or revocation.

(11) The decision of the Minister on an appeal under subsection (10) is final and shall be carried into effect by the Director-General.

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(12) Notwithstanding subsections (5) and (6), where the accreditation of a grader has been suspended or revoked by a further notice served under subsection (5), the suspension or revocation, as the case may be, does not take effect—

(a) until 7 days have expired after the notice was served;
or

(b) where the grader has appealed under subsection (10), until the appeal has been determined or withdrawn.

Inspectors. **11.** (1) The Governor may, under and subject to the Public Service Act, 1902, appoint persons to be inspectors for the purposes of this Act.

(2) An inspector may be appointed under subsection (1) for the whole of New South Wales or for a part of New South Wales specified in the instrument appointing him.

(3) Where an inspector is appointed for a part of New South Wales he may exercise only within that part of New South Wales the powers conferred by this Act on an inspector.

(4) Where the Governor appoints a person to be an inspector under subsection (1), the Minister shall issue that person with a certificate of authorisation stating that he has been so appointed.

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PART IV.

FIXING OF MINIMUM PRICES.

12. In this Part, "Committee" means a Negotiating Committee or a Joint Negotiating Committee.

Interpre-
tation:
Part IV.

13. (1) Any powers, authorities, duties and functions conferred or imposed by or under this Part on a Committee in relation to grapes or must may be exercised or performed by the Committee only in relation to the controlled wine grapes for which the Committee is constituted and controlled must produced from those grapes.

Powers,
etc., of
Committees.

(2) A Negotiating Committee may not exercise or perform any powers, authorities, duties or functions in respect of controlled grapes or controlled must in respect of which a Joint Negotiating Committee may exercise or perform those powers, authorities, duties or functions.

14. (1) A Committee may, whether at a meeting held in New South Wales or Victoria, determine the minimum prices to be paid by processors—

Determina-
tions by
Committees.

(a) for grapes picked during—

(i) the year commencing on 1st January next following the date on which the Committee was first constituted; and

(ii) a succeeding year commencing on 1st January; and

(b) for must produced from any such grapes.

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(2) A determination under subsection (1) may be made by a Committee only before 15th December immediately preceding the year in respect of which it is made and shall specify the year in respect of which it is made.

(3) A Committee may, under subsection (1), determine different minimum prices to be paid by processors for grapes or for must according to—

- (a) the variety of the grapes or the variety or varieties of the grapes from which the must was produced;
- (b) the manner in which or the place at which the grapes are or the must is to be delivered to processors;
- (c) the manner in which the prices are to be paid; and
- (d) such other factors relating to the grapes or must or to the supply of the grapes or must as the Committee thinks relevant.

(4) A minimum price may be determined under subsection (1) as a rate related to weight or volume or in such other manner as the Committee making the determination thinks fit.

(5) Where a Committee makes a determination under subsection (1) of a minimum price to be paid by processors for grapes, it may also determine the maximum amount that processors may deduct from that price for the presence of any unsound grapes.

(6) When a Committee makes a determination under subsection (1) or (5), the member of the Committee appointed pursuant to clause 2 (1) (a) of Schedule 1 shall forthwith cause particulars of the determination to be transmitted to the Minister and published in not less than 2 successive issues of a newspaper or another periodic publication circulating in New South Wales.

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15. (1) A Committee may approve of agreements for the supply of controlled wine grapes or controlled must to processors otherwise than by way of sale. Approval of agreements.

(2) Subject to subsection (3), the Arbitrator for a Committee may, if so directed by an order in writing given him by the Minister, exercise the powers of the Committee under subsection (1), subject to such limitations and conditions, if any, as are specified in the order.

(3) An order referred to in subsection (2) directing the exercise of the powers of a Joint Negotiating Committee may be made only with the concurrence of the Minister administering the corresponding Act.

(4) An approval granted by the Arbitrator for a Committee when exercising the powers of the Committee pursuant to a direction given in accordance with subsection (2) shall be deemed to have been granted by that Committee under subsection (1).

16. (1) Where a Committee empowered to determine the minimum prices to be paid for grapes picked during a year commencing on 1st January and for must produced from any such grapes has not, before 15th December in the immediately preceding year, determined—

- (a) those minimum prices; or
- (b) the maximum amount that processors may deduct from the price of those grapes for the presence of any unsound grapes,

the member of the Committee appointed pursuant to clause 2 (1) (a) of Schedule 1 shall on, or as soon as practicable after, that 15th December, give written notice of that fact to the Minister.

(2) Subject to subsections (3)–(5), the Arbitrator for a Committee shall, if so directed by an order in writing given him by the Minister, exercise any of the powers of the Committee under section 14, subject to such limitations and conditions, if any, as are specified in the order.

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(3) The Minister may make an order referred to in subsection (2) directing the Arbitrator for a Committee to exercise the powers of the Committee, only if the Minister has been given written notice under subsection (1) by a member of the Committee.

(4) An order referred to in subsection (2) directing the exercise of the powers of a Joint Negotiating Committee may be made only with the concurrence of the Minister administering the corresponding Act.

(5) An Arbitrator for a Committee shall—

- (a) before making a determination that requires him to exercise the powers of the Committee, furnish the member of the Committee appointed pursuant to clause 2 (1) (a) of Schedule 1 with particulars of his proposed determination; and
- (b) in making the determination, but subject to his duty to comply with subsection (2), give effect to any recommendation made by the Committee with respect to the terms of the determination and communicated to him before the determination is made.

(6) Where a member of a Committee is furnished, under subsection (5) (a), with particulars of a proposed determination, he shall forthwith give notice of those particulars to the other members of the Committee.

(7) A determination made by the Arbitrator for a Committee when exercising the powers of the Committee pursuant to an order given in accordance with subsection (2) shall be deemed to have been made by that Committee under section 14.

(8) A person shall not furnish to the Arbitrator for a Committee information relating to a determination that the person knows to be false or misleading in a material particular.

Penalty : \$500.

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(9) When the Arbitrator for a Committee has made a determination under subsection (2), the Arbitrator shall cause particulars of the determination to be given to—

- (a) the Minister; and
- (b) where a corresponding Act is in force and the determination has been made by reason of the failure of a Joint Negotiating Committee to make a determination—the Minister administering that Act.

(10) When he is given particulars of a determination under subsection (2), the Minister shall cause particulars of the determination to be published in not less than 2 successive issues of a newspaper or another periodic publication circulating in New South Wales.

17. (1) As soon as is practicable after controlled wine grapes are or controlled must is delivered to a processor from another person, the processor shall cause an employee of his who is an accredited grader to determine—

Deduction
for unsound
grapes.

- (a) the weight of the grapes or the volume of the must, as the case may require; and
- (b) subject to subsection (2) and where the grader finds any of those grapes are unsound—
 - (i) the quantity of those grapes that are affected by the presence of unsound grapes; and
 - (ii) any deduction (calculated at a rate being not greater than the rate determined in respect of the grapes under section 14 (5)) that will be made for the presence of unsound grapes.

Penalty : \$1,000.

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(2) An accredited grader employed by a processor may not make a determination under subsection (1) (b) in respect of controlled wine grapes unless—

- (a) as soon as is practicable after the grapes have been delivered to the processor, the grader has given to the person from whom delivery of the grapes was taken by the processor notice of his intention to make the determination and the particulars of the proposed determination; or
- (b) an inspector has approved of the making of the determination by the grader.

(3) An inspector may refuse to give an approval under subsection (2) (b) in respect of grapes unless he has inspected the grapes.

(4) A processor may make a deduction in accordance with a determination made under subsection (1) (b) in respect of controlled wine grapes of which he has taken delivery that have been found to be affected by the presence of unsound grapes.

(5) An accredited grader shall—

- (a) forthwith after he has made a determination under subsection (1), make an accurate and complete record of particulars of the determination in the prescribed manner; and
- (b) preserve the record so made, or cause it to be preserved, for not less than the period prescribed in respect of it.

Penalty : \$500.

(6) For the purposes of subsection (2), and without prejudice to any other manner in which notice may be given, an accredited grader employed by a processor may give notice to a person from whom the processor has taken delivery of controlled wine grapes by—

- (a) telephoning the notice to any telephone number; or

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(b) sending a pre-paid telegram to any address,
that the person has provided for the purpose of his being given
notice by the grader.

PART V.

CONTROL OF MINIMUM PRICES.

18. (1) A processor shall not take delivery of controlled wine grapes or controlled must unless—

Processors
to pay
minimum
prices.

- (a) he does so in the course of buying the grapes from their grower or the must from the grower of the grapes from which the must was produced; or
- (b) he does so—
 - (i) in the course of acquiring the grapes or must from another processor; or
 - (ii) in accordance with an agreement approved under section 15.

Penalty : \$1,000.

(2) A processor shall not buy controlled wine grapes from their grower unless, subject to any deduction made by him in relation to the grapes in accordance with section 17 (4), he pays or is liable to pay the grower for the grapes not less than the minimum price determined under section 14 in respect of those grapes.

Penalty : \$1,000.

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(3) A processor shall not buy controlled must from the grower of the grapes from which the must was produced unless he pays or is liable to pay the grower for the must not less than the minimum price determined under section 14 in respect of that must.

Penalty : \$1,000.

(4) A processor is not guilty of an offence under subsection (1), (2) or (3) if he satisfies the court—

- (a) that he did not intend to use the controlled wine grapes or controlled must, as the case may be, to which the alleged offence relates for the purpose of their or its being used in the production of wine, grape juice, distillation spirit or brandy; or
- (b) that, when he took delivery of those grapes or that must, no minimum price had been determined under section 14 in respect of those grapes or that must, as the case may require.

Growers
to sell at
minimum
prices.

19. (1) A grower shall not sell controlled wine grapes to a processor unless, subject to any deduction made in relation to the grapes by the processor in accordance with section 17 (4), when the grower sells the grapes, the processor pays or is liable to pay the grower for the grapes a price that is not less than the minimum price determined under section 14 in respect of the grapes.

Penalty : \$1,000.

(2) A grower shall not sell controlled must to a processor unless when the grower sells the must, the processor pays or is liable to pay the grower for the must a price that is not less than the minimum price determined under section 14 in respect of the must.

Penalty : \$1,000.

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(3) A grower is not guilty of an offence under subsection (1) or (2) if he satisfies the court that—

- (a) when he sold the controlled wine grapes or controlled must, as the case may be, to which the alleged offence relates he believed on reasonable grounds that he was not supplying them or it, as the case may be, for the purpose of their or its being used in the production of wine, grape juice, distillation spirit or brandy; or
- (b) when those grapes were or that must was delivered to the processor, no minimum price had been determined under section 14 in respect of those grapes or that must, as the case may require.

PART VI.

SUPPLEMENTARY.

20. (1) Where an inspector believes on reasonable grounds— Powers of inspectors.

- (a) that a vehicle or vessel is being used to transport controlled wine grapes or controlled must; or
- (b) that a place is or premises are being used to grade or process controlled wine grapes or to process controlled must for the production of must, grape juice, wine, distillation spirit or brandy,

he may, subject to this section, enter and remain in or on that vehicle or vessel or that place or those premises for as long as reasonably necessary for the purpose of—

- (c) searching and inspecting the vehicle, vessel, place or premises for grapes or must; or

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- (d) examining grapes or must found in or on the vehicle, vessel, place or premises,

and may—

- (e) require any person for the time being apparently in charge of the grapes or must to permit him to take samples thereof; and
- (f) require any person in or on that vehicle, vessel or place or those premises to produce any accounts, records, books, documents, goods, packages, parcels or other things which relate (or which the inspector believes on reasonable grounds relate) to the operations of the processing of the grapes into must, or the grapes or must into grape juice, wine, distillation spirit or brandy.

(2) An inspector who in or on any place, premises, vehicle or vessel is exercising or performing any power, authority, duty or function under this Act shall, if so required by a person apparently in charge of that place, those premises, that vehicle or that vessel, produce the certificate of authorisation issued to him under section 11 (4) to that person.

(3) An inspector may be accompanied and assisted by any person he considers necessary to assist him in the exercise and performance of his powers, authorities, duties and functions under this Act.

(4) A person shall not—

(a) delay, obstruct, hinder or impede—

(i) an inspector; or

(ii) a person assisting an inspector,

in the exercise or performance of his powers, authorities, duties or functions under this Act; or

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- (b) fail to comply with any requirement made of him by an inspector under subsection (1) (e) or (f).

Penalty for an offence against this subsection: \$500.

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

(2) A person shall not, upon demand being made upon him under subsection (1)—

- (a) fail or refuse to state his name or usual place of abode; or
(b) state as his name a name that is not his name or as his usual place of abode a place that is not his usual place of abode.

Penalty: \$500.

22. A person shall not—

- (a) forge or counterfeit any written evidence of appointment as an inspector;
(b) make use of any forged, counterfeited or false written evidence of any such appointment;
(c) impersonate an inspector; or
(d) falsely pretend to be an inspector.

Forging evidence of appointment of inspector, etc.

Penalty: \$500.

23. Proceedings for any offence against a provision of this Act shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone. Proceedings for offences.

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Offences by
corporations.

24. (1) Where a corporation contravenes any provision of this Act, each director of the corporation, and each officer concerned with the management of the corporation, shall be deemed to have contravened the same provision unless he satisfies the court that—

- (a) the corporation contravened the provision without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision;
- (c) he, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation; or
- (d) the corporation would not have been found guilty of the offence by reason of its being able to establish a defence available to it under this Act.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act on any corporation by which an offence against that provision is actually committed.

Certain pro-
ceedings
prohibited.

25. No proceedings lie against a member of a Negotiating Committee or a Joint Negotiating Committee or an Arbitrator for any such Committee for or on account of any act, matter or thing done by him and purporting to be done for the purpose of carrying out the provisions of this Act, if the member or Arbitrator, as the case may be, has acted in good faith and with reasonable care.

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26. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

SCHEDULE 1.

Sec. 7 (4).

PROVISIONS RELATING TO NEW SOUTH WALES
NEGOTIATING COMMITTEES.

1. In this Schedule, "member" means a member of a Negotiating Committee. Interpre-
tation.
2. (1) A Negotiating Committee shall consist of 7 members appointed by the Minister, of whom— Constitu-
tion of
Negotiating
Committee.
- (a) one shall be an officer of the Department of Agriculture;
 - (b) three shall be growers (other than growers who are processors) who reside in New South Wales and who grow grapes of the varieties specified in the order published in relation to the Committee under section 6 (1) in the area of New South Wales so specified or who cause any such grapes to be grown in that area; and
 - (c) three shall be processors who produce wine, grape juice, distillation spirit or brandy from grapes of the varieties referred to in paragraph (b) or from must produced from any such grapes.
- (2) Where, before 1st November that occurs immediately before a term of 3 years for which members of a Negotiating Committee are to be appointed, the Minister has received from growers or processors or organisations representing growers or processors, being in each case growers or processors who are eligible under subclause (1) of this clause to be appointed members of the Committee, nominations in writing of persons to be appointed for that term, being persons who are so eligible, he may appoint members of the Committee for that term only from among the persons who have been so nominated, but, where an insufficient number of persons have been so nominated for him to appoint members so that the Committee is constituted in accordance with subclause (1) of this clause, the Minister may appoint, in addition to the nominated persons, a sufficient number of other eligible persons as members of the Committee so that the Committee is so constituted.

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SCHEDULE 1—*continued.*
 PROVISIONS RELATING TO NEW SOUTH WALES
 NEGOTIATING COMMITTEES—*continued.*

(3) The person referred to in subclause (1) (a) of this clause shall be the Chairman of the Negotiating Committee.

(4) The Minister may nominate another officer of the Department of Agriculture to act in the place of the member appointed under subclause (1) (a) of this clause and a person so acting shall be deemed to have been appointed under that subclause for the period during which he so acts.

(5) Subject to subclause (2) of this clause, when appointing members of a Negotiating Committee under subclause (1) (c) of this clause, the Minister shall take into account the relative quantities of grapes for which the Committee is constituted that are crushed annually by processors eligible to be appointed members of the Committee.

(6) The Minister may nominate a person to act in the place of any member who has been granted leave by a Negotiating Committee to be absent from a meeting of the Committee and a person so acting shall be deemed to be a member of that Committee at that meeting.

(7) A member shall, subject to clause 3, hold office for a term of 3 years and is, if otherwise qualified, eligible for re-appointment.

(8) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member or to or in respect of a member in his capacity as a member during his term of office.

(9) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

 Vacation
 of office.

3. (1) A member shall be deemed to have vacated his office if—
- (a) he dies;
 - (b) he ceases to possess any qualification that he requires to be a member;
 - (c) he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (d) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO NEW SOUTH WALES
NEGOTIATING COMMITTEES—*continued.*

- (e) he is convicted in New South Wales or elsewhere of an offence punishable by imprisonment for a period of 12 months or more, or if he is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable;
- (f) he resigns his office in writing under his hand addressed to the Minister, and the Minister accepts his resignation;
- (g) he is absent from 3 consecutive meetings of the Negotiating Committee of which reasonable notice has been given to him personally or by post except on leave granted by the Committee and is not, within 6 weeks after the last of those meetings, excused by the Committee for his absence from those meetings; or
- (h) he is removed from office by the Minister.

(2) The Minister may, for any cause that appears to him to be sufficient, remove any member from office.

4. (1) On the occurrence of a vacancy in the office of a member of a Negotiating Committee otherwise than by the expiration of the term for which he was appointed, the Minister may, under section 7 (2), appoint a person to the vacant office for the residue of his predecessor's term of office so that the Committee is constituted as provided by clause 2 (1). Filling of casual vacancies.

(2) A member appointed pursuant to subclause (1) of this clause is, if otherwise qualified, eligible for re-appointment as a member.

5. (1) The procedure for the calling of meetings of a Negotiating Committee shall, subject to subclause (2) of this clause, be as determined by the Committee. Meetings of Negotiating Committee.

(2) A Negotiating Committee shall meet—

- (a) at any time, if its members are requested so to do by the Minister or the Chairman of the Committee; and
- (b) at least once before 15th December in every year.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO NEW SOUTH WALES
NEGOTIATING COMMITTEES—*continued.*

(3) The Chairman of a Negotiating Committee shall call a meeting under subclause (2) of this clause if he is requested so to do by a majority of the members of the Committee appointed pursuant to clause 2 (1) (b) or (c).

(4) At any meeting of a Negotiating Committee, the Chairman of the Committee shall preside.

(5) The Chairman of a Negotiating Committee is not eligible to vote on any matter at a meeting of the Committee.

(6) The Chairman and an even number of members eligible to vote, including not less than 2 members having the qualifications referred to in clause 2 (1) (b) and 2 members having the qualifications referred to in clause 2 (1) (c), shall form a quorum and any duly convened meeting of a Negotiating Committee at which a quorum is present shall be competent to transact any business of the Committee and shall have and may exercise and perform all of the powers, authorities, duties and functions of the Committee.

(7) A decision made by secret ballot taken at a meeting of a Negotiating Committee at which a quorum is present and supported by a majority of the votes of the members of the Committee present and eligible to vote shall be the decision of the Committee.

Secretary. 6. (1) The Minister may appoint an officer of the Department of Agriculture to be the secretary to a Negotiating Committee.

(2) The Minister may nominate an officer of the Department of Agriculture to act in the place of the secretary to a Negotiating Committee and a person so acting shall be the secretary to the Committee at any meeting of the Committee at which he is present.

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SCHEDULE 2.

Sec. 8 (2).

PROVISIONS RELATING TO JOINT NEGOTIATING COMMITTEES.

1. In this Schedule, "New South Wales Committee" means a Wine Grape Processing Industry Negotiating Committee referred to in section 7. Interpretation.

2. (1) The Chairman of a New South Wales Committee who is a member of a Joint Negotiating Committee shall be the Chairman of the Joint Negotiating Committee when it meets in New South Wales. Chairman.

(2) The Chairman of a corresponding Committee who is a member of a Joint Negotiating Committee shall, if he so agrees, be the Deputy-Chairman of the Joint Negotiating Committee when it meets in New South Wales.

3. (1) The members of a New South Wales Committee who are members of a Joint Negotiating Committee shall attend a meeting of the Joint Negotiating Committee, whether held in New South Wales or Victoria— Meetings.

- (a) at any time, if so requested jointly by the Ministers administering this Act and the corresponding Act or by the Chairman or Deputy-Chairman of the Joint Negotiating Committee;
- (b) at least once before 15th December in every year; and
- (c) at such other times or in such other circumstances as the Joint Negotiating Committee determines.

(2) The Chairman or Deputy-Chairman of a Joint Negotiating Committee shall call a meeting of the Committee in New South Wales if he is requested so to do by a majority of the members of the Committee appointed pursuant to—

- (a) clause 2 (1) (b) of Schedule 1 and the corresponding provision of the corresponding Act; or
- (b) clause 2 (1) (c) of Schedule 1 and the corresponding provision of the corresponding Act.

(3) Subject to subclauses (4)–(8) of this clause, the procedure of a Joint Negotiating Committee when it meets in New South Wales shall be as determined by the Committee.

(4) At any meeting of a Joint Negotiating Committee held in New South Wales, the Chairman of the Committee shall preside.

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 SCHEDULE 2—*continued.*

 PROVISIONS RELATING TO JOINT NEGOTIATING COMMITTEES—*continued.*

(5) Neither the Chairman nor the Deputy-Chairman of a Joint Negotiating Committee is eligible to vote on any matter at a meeting of the Committee held in New South Wales.

(6) Subject to subclause (5) of this clause, a person who is both a member of a corresponding Committee and of the New South Wales Committee to which it corresponds is entitled to 2 votes at any meeting of the Joint Negotiating Committee comprised of the members of those 2 Committees, being a meeting held in New South Wales.

(7) A quorum for a meeting of a Joint Negotiating Committee held in New South Wales shall consist of a quorum for a meeting of the New South Wales Committee and a quorum for a meeting of the corresponding Committee the members of which together comprise the Joint Negotiating Committee and any duly convened meeting of a Joint Negotiating Committee so held at which a quorum is present shall be competent to transact any business of the Committee and shall have and may exercise and perform all of the powers, authorities, duties and functions of the Committee.

(8) A decision made by secret ballot taken at a meeting of a Joint Negotiating Committee held in New South Wales at which a quorum is present and supported by a majority of the votes of the members of the Committee present and eligible to vote shall be the decision of the Committee.

Decisions
taken
outside
the State.

4. A decision that purports to have been made by a Joint Negotiating Committee at a meeting of the Committee held outside New South Wales is a decision of that Committee for the purposes of this Act only if it would have been a duly made decision of the Committee, had that decision been made at a meeting held in New South Wales.

Secretary.

5. The secretary to a New South Wales Committee the members of which are members of a Joint Negotiating Committee shall be the secretary to the Joint Negotiating Committee when it meets in New South Wales.

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SCHEDULE 3.

Sec. 9 (3).

PROVISIONS RELATING TO WINE GRAPE PROCESSING INDUSTRY ARBITRATORS.

1. In this Schedule, "Committee" means a Negotiating Committee or a Joint Negotiating Committee. Interpretation.

2. (1) A person shall not be appointed under section 9 (1) unless he is under the age of 70 years. Appointment and term of office.

(2) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a person under section 9 (1) or to such a person in his capacity as an Arbitrator for a Committee.

(3) Subject to section 30 (b) of the Interpretation Act, 1897, an Arbitrator for a Committee shall hold office for such period as is specified in the instrument of his appointment or until he attains the age of 70 years, whichever first occurs, and, subject to subclause (1) of this clause, is eligible to be re-appointed as Arbitrator for the Committee.

3. The Arbitrator for a Committee is entitled to be paid such remuneration and allowances as the Minister may from time to time determine in respect of him. Remuneration.

4. The procedure for the making of a determination by the Arbitrator for a Committee shall, subject to section 16 and clause 5, be as determined by him. Procedure.

5. (1) The Arbitrator for a Committee is not bound by the rules or practice as to evidence and may inform himself of any matter in such manner as he thinks fit. Evidence.

(2) Where the Arbitrator for a Committee is exercising the powers of the Committee under section 14, the members of the Committee may appear in person before the Arbitrator and make such oral and written submissions as the Arbitrator considers relevant, but no person is entitled to be represented before the Arbitrator by another person.

6. No determination by the Arbitrator for a Committee shall be vitiated by reason only of any informality or want of form. Form of determination.