

EGG INDUSTRY ACT, 1983, No. 57

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 57, 1983.

An Act relating to the production, supply and marketing of eggs and egg products; to constitute and define the functions of the New South Wales Egg Corporation and the Poultry Farmer Licensing Committee; to repeal the Egg Industry Stabilisation Act, 1971; and for other purposes. [Assented to, 4th May, 1983.]

See also Statutory and Other Offices Remuneration (Egg Industry) Amendment Act, 1983.

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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 "Egg Industry Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

- (2) Except as provided by this section, 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.

- (3) For the purpose only of enabling the Corporation and the Licensing Committee to be constituted in accordance with this Act on or after (but not before) the day appointed and notified under subsection (2), appointments may be made under this Act, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

Arrangement.

3. This Act is divided as follows:—

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Interpretation.

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

“authorised agent” means an authorised agent appointed under section 19;

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

- (a) a White Leghorn;
- (b) an Australorp, a New Hampshire, a Rhode Island Red or a Langshan;
- (c) a cross between a White Leghorn and a breed referred to in paragraph (b); or
- (d) a hen of a class specified in an order under subsection (2) that has taken effect under subsection (3),

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

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

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

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

“Corporation” means the New South Wales Egg Corporation constituted by this Act;

“egg” means a hen egg or an egg of a prescribed class or description;

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“egg products” includes egg pulp and all forms of unprocessed and processed whole egg, egg white, egg yolk or egg in shell, whether in full form or with additives, and includes dried or frozen egg products, and includes any prescribed things or things of a prescribed class or description;

“hen” means a female domesticated fowl of the genus *Gallus* that is not less than 6 months old;

“hen quota”, in relation to a licensee, means the hen quota specified in his licence;

“inspector” means an inspector authorised pursuant to section 51;

“licence” means a licence issued under this Act;

“licensed place” means the place to which a licence relates;

“licensee” means the holder of a licence;

“Licensing Committee” means the Poultry Farmer Licensing Committee constituted by this Act;

“producer” means a producer of eggs;

“regulation” means a regulation under this Act;

“sell” means sell by wholesale or by retail, and includes barter, supply for profit, offer for sale, receive for sale, have in possession for sale, send, forward or deliver for sale and cause, suffer or allow to be sold, offered or exposed for sale;

“store” includes deposit;

“unlicensed place” means a place that is not a licensed place.

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

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(3) An order published under subsection (2), and any alteration or variation of such an order, does not take effect until the expiration of 3 months after its publication.

(4) In this Act, a reference to—

- (a) a function includes a reference to a power, authority and duty;
and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(5) In this Act, a reference to—

- (a) an officer of the Corporation is a reference to a member of the staff of the Corporation; and
- (b) an officer of the Licensing Committee is a reference to a member of the staff of the Corporation whose services are being made use of by the Licensing Committee under section 13.

(6) In this Act, a reference to the place to which a license relates includes a reference to all places to which the licence relates, whether or not they are contiguous.

Eggs not within Marketing of Primary Products Act, 1927.

5. Eggs, as defined by this Act, are not a product for the purposes of the Marketing of Primary Products Act, 1927.

Delegation by the Minister.

6. (1) The Minister may, by instrument in writing, delegate to an officer of the Public Service the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Minister by or under this Act as may be specified in the instrument of delegation, and may, by a like instrument, revoke any such delegation.

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(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the delegate.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Minister may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Minister, and shall be deemed to have been done or suffered by the Minister.

(6) An instrument purporting to be signed by a delegate of the Minister in his capacity as a delegate of the Minister under this Act shall in all courts be received in evidence as if it were an instrument executed by the Minister and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Minister.

Saving of certain Acts, etc.

7. Unless otherwise in this Act expressly provided, this Act does not affect any provision of the Public Health Act, 1902, the Pure Food Act, 1908, the Weights and Measures Act, 1915, the Local Government Act, 1919, the Stock Diseases Act, 1923, the Auctioneers and Agents Act, 1941, or the Factories, Shops and Industries Act, 1962, or any rules, regulations, ordinances or by-laws made under any of those Acts, or take away powers vested in any person or body by any of those Acts or by any rules, regulations, ordinances or by-laws made thereunder.

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PART II.

THE NEW SOUTH WALES EGG CORPORATION.

The Corporation.

8. (1) There is hereby constituted a corporation under the corporate name of the "New South Wales Egg Corporation".

(2) The Corporation—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act; and
- (b) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(3) The Corporation shall consist of 7 members who shall be appointed by the Governor.

(4) Of the members—

- (a) one shall be appointed as Chairman of the Corporation;
- (b) one shall, in and by the instrument by which he is appointed, be appointed as Managing Director of the Corporation;
- (c) 4 shall be appointed to represent producers in New South Wales and shall—
 - (i) for the period of 3 years commencing on the day appointed and notified under section 2 (2)—be persons nominated by the Minister; or
 - (ii) after the end of that period—be persons elected in accordance with the regulations; and
- (d) one shall be a person nominated by the Minister for Consumer Affairs.

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(5) The Corporation does not, for any purpose, represent the Crown.

(6) Schedule 2 has effect with respect to the constitution and procedure of the Corporation.

Functions of Managing Director.

9. (1) The Managing Director—

- (a) is subject to the control and direction of the Corporation;
- (b) is responsible, as the chief executive of the Corporation, for the management of the affairs of the Corporation subject to and in accordance with the directions given to him by the Corporation;
- (c) subject to any limitations or restrictions specified in regulations made for the purposes of this paragraph, shall have and may exercise such of the Corporation's functions under this or any other Act as may be so specified;
- (d) shall have and may, subject to and in accordance with section 11, exercise any functions delegated to him under that section; and
- (e) shall have and may exercise such other functions as are conferred or imposed on him by or under this or any other Act.

(2) Nothing in this section limits or restricts the exercise by the Corporation of any of its functions.

Staff.

10. (1) The Corporation shall appoint and employ such staff as may be necessary for carrying out its functions.

(2) Every member of the staff of the Corporation shall continue in the service of the Corporation at the will of the Corporation only.

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(3) All members of the staff of the Corporation shall be subject to the sole control and governance of the Corporation which may fix wages and conditions of employment where those wages and conditions are not fixed in accordance with any other Act or law.

Delegation.

11. (1) The Corporation may, by instrument in writing under seal, delegate to a member or officer of the Corporation the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Corporation by or under this or any other Act as may be specified in the instrument of delegation, and may, by a like instrument, revoke any such delegation.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the delegate.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Corporation may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Corporation, and shall be deemed to have been done or suffered by the Corporation.

(6) An instrument purporting to be signed by a delegate of the Corporation in his capacity as such a delegate shall in all courts be received in evidence as if it were an instrument executed by the Corporation under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Corporation.

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PART III.

THE POULTRY FARMER LICENSING COMMITTEE.

The Committee.

12. (1) There is hereby constituted a corporation under the corporate name of the "Poultry Farmer Licensing Committee".

(2) The Licensing Committee—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act; and
- (b) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(3) The Licensing Committee shall consist of 4 members who shall be appointed by the Minister.

(4) Of the members—

- (a) one shall, in and by the instrument by which he is appointed, be appointed as Chairman of the Licensing Committee;
- (b) 2 shall be appointed to represent the Corporation and be members of the Corporation; and
- (c) one shall be a person with such qualifications as the Minister considers appropriate.

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

(6) Schedule 3 has effect with respect to the constitution and procedure of the Licensing Committee.

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Use of officers.

13. The Licensing Committee may, by arrangement with the Corporation, make use of the services of any officer of the Corporation.

Delegation.

14. (1) The Licensing Committee may, by instrument in writing under seal, and with the approval of the Minister, delegate to a member or officer of the Licensing Committee the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Licensing Committee by or under this or any other Act as may be specified in the instrument of delegation, and may, by a like instrument, revoke any such delegation.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the delegate.

(3) A delegation under this section may be made subject to such conditions or such limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Licensing Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Licensing Committee, and shall be deemed to have been done or suffered by the Licensing Committee.

(6) An instrument purporting to be signed by a delegate of the Licensing Committee in his capacity as such a delegate shall in all courts be received in evidence as if it were an instrument executed by the Licensing Committee under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Licensing Committee.

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PART IV.

SUPPLY AND MARKETING OF EGGS.

DIVISION 1.—*Preliminary.*

Exemption.

15. (1) The Minister may, by order published in the Gazette, exempt from the operation of all of the provisions of this Part, or any of the provisions of this Part specified in the order—

- (a) any person or class of persons; or
- (b) any eggs or class of eggs,

specified or described in the order.

(2) An order under this section takes effect on the day on which the order is published in the Gazette or, where a later day is specified in the order for the purpose, on that later day.

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

(4) For the purposes of subsection (1), a class may be defined by reference to such circumstances or factors as the Minister thinks fit.

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

Functions of Licensing Committee not affected.

16. Nothing in this Part affects the functions of the Licensing Committee.

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DIVISION 2.—*General functions of the Corporation.***Marketing functions.**

17. (1) The Corporation may sell or arrange for the sale of eggs vested in or delivered or to be delivered to it, and do all acts, matters and things necessary or expedient in that behalf accordingly.

(2) Without limiting the generality of subsection (1), the Corporation may—

- (a) engage in the collecting, grading, packing, treating, carrying, storing, distributing (by wholesale or retail) and delivering of eggs and egg products;
- (b) establish and conduct storage and manufacturing facilities for eggs and egg products;
- (c) subject to the regulations, establish grades, classes or descriptions of eggs and egg products;
- (d) fix the price at which a grade, class or description of eggs may be sold by wholesale;
- (e) purchase eggs and egg products for resale or use;
- (f) treat or contract for the treatment of eggs delivered or to be delivered to it in pursuance of this Act;
- (g) prepare or contract for the preparation of egg products by a process of manufacture;
- (h) as far as practicable, provide eggs for consumption in New South Wales, and for their supply during any period of shortage to those places within New South Wales at which a shortage is experienced;
- (i) make such arrangements as it deems necessary with regard to sales of eggs and egg products for export or for consignment to other countries or other parts of Australia;
- (j) promote and encourage the use, sale or consumption of eggs and egg products; and

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- (k) enter into agreements for the use, within New South Wales or elsewhere, of any trade mark of which it is, or is entitled to be, registered as proprietor.

(3) It is the duty of the Corporation, in exercising its functions under this Act, to ensure the wholesomeness and purity of eggs and egg products in the interests of public health.

(4) In addition to its other functions under this Act, it is the duty of the Corporation to take such steps under this Act and the regulations as are necessary or convenient to ensure that eggs and egg products, whether or not they are or have, at any time, been vested in the Corporation, and whether produced in New South Wales or not, shall comply with prescribed standards of quality and of grade when sold by wholesale or retail in New South Wales.

(5) The Corporation may exercise any of its functions under this section, whether or not the function is exercised in, or the thing in respect of which the function is exercised is in or of or produced in, New South Wales.

Miscellaneous functions.

18. (1) The Corporation may—

- (a) establish and maintain laboratories and carry out research and make investigations into matters relating to eggs and egg products (including chemical, physical, bacteriological and economic research and investigations);
- (b) devise and initiate as far as may be practicable improved methods of producing, collecting, grading, packing, treating, carrying, storing, distributing, delivering, supplying, selling and using eggs and egg products;
- (c) devise and initiate as far as may be practicable means to prevent or eliminate wasteful, unnecessary or unhygienic methods, practices, costs or charges in connection with producing, collecting,

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grading, packing, treating, carrying, storing, distributing, delivering, supplying, selling or using eggs and egg products; and

- (d) publish reports, information and advice concerning the producing, collecting, grading, packing, treating, carrying, storing, distributing, delivering, supplying, preserving, use and sale of eggs and egg products.

(2) The Corporation may, with the approval of the Minister, manufacture or contract for the manufacture of cartons, trays and other articles or things for use in connection with the collecting, grading, packing, treating, carrying, storing, distributing and delivering of eggs and egg products.

(3) Without limiting any other of its functions, the Corporation may—

- (a) enter into agreements with any person for or in connection with its functions, including agreements for the carrying out of works or the performance of services or the supply of goods or materials in connection with any of its functions; and
- (b) with the approval of the Minister, enter into agreements with any person for the use of any of the equipment, machinery or facilities of the Corporation for a purpose not itself otherwise connected with the functions of the Corporation.

(4) The Corporation shall, when required so to do by the Minister, furnish to the Minister within a time specified by him a report containing such information relating to the operations of the Corporation as the Minister may direct.

Appointment of authorised agents.

19. (1) The Corporation may, by order in writing, appoint any person to be an authorised agent to act as the Corporation's agent for the purpose of exercising, in such circumstances as may be specified in the order, such of the functions of the Corporation as may be so specified.

(2) Where the Corporation appoints an authorised agent under subsection (1) for the purpose of exercising any functions of the Corporation, those functions may be carried out by any employee, or agent, of that authorised agent who is authorised to do so by that authorised agent.

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(3) For the purposes of this Act, and if the relevant order so provides—

(a) an authorised agent shall be deemed to deliver eggs to the Corporation; and

(b) the Corporation shall be deemed to accept those eggs,

in such circumstances as may be specified in the order.

(4) The Corporation may, with the approval of the Minister, enter into an agreement with an authorised agent for retention by the agent of such part of the proceeds of the sale by him of eggs as is provided for in the agreement.

Corporation may act as agent.

20. (1) The Corporation may act as agent for any person for the purpose of selling—

(a) any eggs or egg products which that person is entitled to sell, whether or not they were produced within New South Wales; or

(b) any products produced outside New South Wales which that person is entitled to sell and which, if they were produced within New South Wales, would answer the description of eggs or egg products to which this Act would apply,

and may do all acts, matters and things necessary or expedient in that behalf accordingly.

(2) Costs, charges and expenses incurred by the Corporation in pursuance of subsection (1) shall be costs, charges and expenses of administration by the Corporation of this Act and any commission or other remuneration shall, unless the Minister directs that the whole or any part of the commission or other remuneration so received be applied towards some other purpose of the Corporation, be applied towards the payment of the lastmentioned costs, charges and expenses.

(3) If the Corporation, in pursuance of subsection (1), sells anything which is farm produce within the meaning of the Farm Produce Agents Act, 1926, the Corporation shall be deemed not to be a farm produce agent within the meaning of that Act.

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DIVISION 3.—*Vesting of eggs in the Corporation.***Vesting of eggs in the Corporation.**

21. (1) Eggs produced in New South Wales are absolutely vested in and are the property of the Corporation.

(2) Eggs vested in the Corporation by the operation of subsection (1) and accepted by the Corporation are so vested freed from all mortgages, charges, liens, pledges, interests and trusts affecting them, and the rights and interests of every person in those eggs are converted into a claim for payment for the eggs so accepted.

Avoidance of contracts for sale of eggs.

22. (1) Every contract, whether made before or after the commencement of this section, or provision in any such contract, so far as it relates to the sale of eggs referred to in section 21 (1), is and shall be deemed to have been void and of no effect as from the date upon which the contract was made.

(2) Any provision in a contract, being a provision referred to in subsection (1), shall be deemed to be severable.

(3) Any transaction or contract with respect to eggs which are the subject-matter of any contract or provision of a contract declared by this section to be void shall also be void and of no effect, and any money paid pursuant to any such contract or provision or to any such transaction shall be repayable.

(4) This section does not apply to a contract entered into by the Corporation.

Remedy against Corporation confined to claim for account.

23. (1) Subject to this section, no proceedings at law or in equity shall be brought against the Corporation or any person acting under its authority by any person claiming to be entitled under any bill of sale, mortgage, charge, lien (including any lien under the Liens on Crops and Wool and Stock Mortgages Act of 1898, or the Co-operation Act, 1923) or other encumbrance over, of or upon any eggs delivered to, and accepted by, the Corporation, or claiming to be the true owner of any such eggs, as against the person who delivered the eggs.

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(2) Any person who, but for subsection (1), would have been entitled to bring any such proceedings may adopt the delivery of any such eggs to the Corporation as a delivery thereof by him to the Corporation, and may claim accordingly for an account of the payments due in respect thereof, and recover the amount due in any court of competent jurisdiction as a debt.

(3) Notwithstanding anything in the Liens on Crops and Wool and Stock Mortgages Act of 1898, or any other Act, or any rule of law to the contrary, any such person shall not be entitled to make any such claim for an account of the payments due in respect of the eggs, or any part of those payments, unless he has given prior notice in writing to the Corporation in the form and containing the particulars prescribed of the bill of sale, mortgage, charge, lien or other encumbrance, or the claim of ownership, and then only for such part of that money as has not been paid to any other person at the time of the receipt by the Corporation of the notice.

DIVISION 4.—*Delivery of eggs to the Corporation.*

Delivery of eggs.

24. (1) Eggs vested in the Corporation by section 21 shall be delivered by the producers to the Corporation at or within such times, at such places, and in such manner as the Corporation may by public notice or in a particular case in writing direct, or as may be prescribed.

(2) A producer who supplies, sells or delivers eggs vested in the Corporation by section 21 to a person other than the Corporation is guilty of an offence against this Act.

(3) A person—

- (a) who buys or receives any eggs knowing that they are supplied, sold or delivered in contravention of subsection (2); or
- (b) who buys by wholesale any eggs at a price other than the price fixed in respect of the eggs by the Corporation,

is guilty of an offence against this Act.

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(4) The regulations may make provision for or with respect to requiring that, when eggs produced at a licensed place are delivered at a place where the Corporation will accept eggs, the names of the licensee and of the producer be disclosed and recorded.

Acceptance of eggs.

25. (1) The Corporation shall not refuse to accept from any producer any eggs that conform to the applicable standards of quality or grade and that are delivered to it in accordance with this Act.

(2) Where—

- (a) the Corporation refuses to accept any eggs after tender of delivery to it in accordance with this Act; or
- (b) any eggs become exempted from the provisions of this Act vesting the eggs in the Corporation,

the eggs shall revert in the person who would have been the owner of the eggs, but subject to all mortgages, charges, liens, pledges, interests and trusts that would have affected them, if this Part had not applied to them.

(3) The Corporation may accept from any producer any eggs that do not conform to the applicable standards of quality or grade, and may deal with them in such manner as it thinks appropriate.

Duty to give notice of encumbrances.

26. (1) Every person delivering eggs to the Corporation which are subject to any bill of sale, mortgage, charge, lien or encumbrance or in respect of which he has entered into any contract in derogation of his title to supply the eggs as the absolute owner thereof, and whether the bill of sale, mortgage, charge, lien, encumbrance or contract was made before or after the commencement of this section, shall, within one month after the making thereof, give to the Corporation a notice in writing in the prescribed form of the bill of sale, mortgage, charge, lien, encumbrance or contract.

(2) Any person wilfully guilty of a failure to comply with the provisions of this section is guilty of an offence against this Act.

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DIVISION 5.—*Payment for vested eggs.***Payments.**

27. (1) The Corporation shall, subject to this Act, make payments to producers for the eggs delivered to, and accepted by, the Corporation in accordance with this Act, at such rates and in such instalments (if any) as the Corporation may determine.

(2) Any payment to producers for eggs shall, in respect of eggs of the same quality or grade delivered to the Corporation during such periods as may be prescribed (or, if not prescribed, as may be determined by the Corporation), be made, as nearly as possible, at a uniform rate.

(3) Notwithstanding subsection (2)—

- (a) the Corporation may, if it is satisfied that the circumstances warrant its doing so, make different payments for eggs produced in different districts;
- (b) the Corporation may, with the approval of the Minister or in accordance with the regulations, make different payments for eggs according to other factors; and
- (c) the Corporation may adjust any amount payable to a particular producer, having regard to other amounts owing to or by him and other factors that are, in the opinion of the Corporation, relevant.

(4) In determining rates of payment under this section, the Corporation may take into account, and make suitable deductions for—

- (a) expenditure incurred in collecting, grading, packing, treating, carrying, storing, distributing, delivering, supplying and selling eggs;
- (b) the costs, charges and expenses incurred by the Corporation and the Licensing Committee in the administration of this Act;
- (c) any reserves created by the Corporation; and

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- (d) any other matters that are, in the opinion of the Corporation, relevant or that are prescribed.

(5) The Corporation's decision as to the quality and grade of eggs, the method of determining any adjustments to be made and the amounts thereof shall be final and conclusive.

(6) Nothing in this section requires the Corporation to make any payments for any eggs that do not conform to the applicable standards of quality or grade.

Corporation not liable for payments made in good faith.

28. Where the Corporation in good faith and without negligence has made any payment—

- (a) to a producer delivering or causing to be delivered any eggs to the Corporation or any person acting under its authority;
- (b) to any person entitled or claiming to be entitled through such a producer; or
- (c) to any person on the order of such a producer or of a person referred to in paragraph (b),

the Corporation shall not be answerable to any other person in respect of the payment for the eggs or any part thereof, or in any action or other proceedings, claim or demand whatever for damages or otherwise.

Corporation protected in certain cases.

29. (1) If, before receiving notice of a claim to any payment for eggs vested in the Corporation or to the chose in action or any part thereof the subject-matter of any such payment, the Corporation has in good faith and without negligence made that payment, in whole or in part, in accordance with the provisions of this Division, the Corporation shall not, to the extent to which it has made that payment, incur any liability to the true owner of the eggs or chose in action or any part thereof or to any person claiming through, under or in trust for him.

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

(3) In any proceedings taken in any court by any such producer, transferee or party in respect of any such eggs or chose in action or part, the Corporation may plead this section as a defence to the proceedings.

PART V.

LICENCES AND PERMITS.

DIVISION 1.—*Preliminary.***Exemptions.**

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

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

- (a) a specified educational or research institution or a specified class of educational or research institutions;
- (b) a specified manufacturer of vaccine or a specified class of manufacturers of vaccine;
- (c) a specified charity within the meaning of the Charitable Collections Act, 1934, or a specified class of charities within the meaning of that Act; and

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- (d) if, in the opinion of the Licensing Committee, there are insufficient eggs being produced in an area of New South Wales for human consumption in that area, a specified person keeping hens in that area.
- (3) An order under subsection (2) takes effect on the day on which the order is published in the Gazette or, where a later day is specified in the order for the purpose, on that later day.
- (4) An order under this section has effect subject to such conditions as are specified in the order.
- (5) For the purposes of subsection (2), a class may be defined by reference to such circumstances or factors as the Minister thinks fit.
- (6) If a person to whom an order under subsection (2) relates fails to comply with or contravenes any condition subject to which the order was made, the Minister may, by order published in the Gazette, amend the order by excluding that person from its operation.

DIVISION 2.—*Licences.***Offences relating to keeping of hens.**

- 31.** (1) A person who keeps hens at an unlicensed place is guilty of an offence against this Act unless the hens are broiler breeder hens.
- (2) If a person keeps hens at a licensed place otherwise than in accordance with the conditions or restrictions to which the licence is subject, the licensee is guilty of an offence against this Act, unless the hens are kept in accordance with a permit issued under Division 5.
- (3) The penalty for an offence referred to in this section is a penalty not exceeding \$2,000 and, in addition, a penalty not exceeding \$500 for every day during which the offence continues.

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Licences.

32. (1) A licence may be issued by the Licensing Committee on application made in or to the effect of a form approved by the Minister for the purposes of this section.

(2) A licence shall specify—

- (a) the name of the person to whom it is issued;
- (b) the place to which it relates; and
- (c) the name or description of the producer at that place.

(3) The licensee and the producer specified in a licence may, subject to this section, be the same person or different persons.

(4) The licensee specified in a licence shall be a natural person, and only one natural person may be specified in the licence at any one time.

(5) The producer specified in a licence may be a natural person, a company or a partnership, or any other body or group of persons corporate or unincorporate.

(6) A licence may, on application, be varied from time to time for the purpose of specifying a person as licensee in the place of another person so specified.

(7) The Licensing Committee may refuse to issue or vary a licence under this section if it is not satisfied that the person who is proposed to be specified as the licensee has been nominated for the purpose by the person who is or is proposed to be specified as the producer.

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

(9) The regulations may make provision for deeming, in a case where the holder of a licence dies, another person to be the holder of the licence.

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Entitlements to licences.

33. (1) Subject to this section, a licence shall not be issued as of right, and no appeal lies from a refusal to issue a licence.

(2) The Licensing Committee shall, on application being made before the date of expiry, issue a licence that conforms to this Act in relation to any place to which a continued licence relates, with effect from the date of expiry or an earlier date determined by the Licensing Committee.

(3) Subsection (2) does not require the issue of a licence if the continued licence is cancelled under this Part before the date of expiry.

(4) When issuing a licence in pursuance of this section, the Licensing Committee shall, unless it is satisfied that special circumstances exist, issue the licence with substantially the same conditions as were previously applicable and with the same hen quota as was specified in the continued licence.

(5) In this section—

“continued licence” means a licence under the Egg Industry Stabilisation Act, 1971, continued in force by this Act until the date of expiry;

“date of expiry” means the date when a continued licence ceases to be in force by virtue of clause 5 of Schedule 4.

Conditions and restrictions relating to licences.

34. (1) A licence may be issued subject to such conditions and restrictions as are specified in the licence by the Licensing Committee.

(2) A licence shall specify that the conditions to which it is subject include—

(a) the condition that there will not be kept at the place to which the licence relates—

(i) hens that exceed in number the hen quota specified in the licence; or

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- (ii) broiler breeder hens,
except in accordance with a permit issued under Division 5; and
- (b) any other prescribed conditions.

Annual licence fee.

35. A licensee shall, on or before 1st August in each year, pay to the Licensing Committee an annual fee for the licence as determined by the Licensing Committee.

Variation of conditions, etc., in licences.

36. The Licensing Committee may vary or revoke a condition (other than a prescribed condition) or restriction to which a licence is subject, or impose further such conditions or restrictions, but, except to the extent that the licensee otherwise requests and the Licensing Committee approves, such a condition or restriction has no force or effect until the expiration of a period of 3 months after the Licensing Committee notifies the licensee of the variation or imposition of the condition or restriction.

Cancellation of licences.

37. (1) The Licensing Committee may cancel a licence—
- (a) if the annual fee for the licence is not paid in accordance with this Act;
 - (b) for a breach of a condition or restriction to which the licence is subject;
 - (c) if the licensee has been convicted of an offence against the Egg Industry Stabilisation Act, 1971, the Commonwealth Levy Collection Act or this Act;
 - (d) if there is no hen quota specified in the licence or that quota is specified as nil; or
 - (e) at the request of the licensee.

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(2) The cancellation of a licence under subsection (1) (a), (b) or (c) remains in abeyance until—

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

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

(3) Nothing in this section affects the power under section 49 to cancel a licence.

Appeals.

38. (1) Subject to this section, where the Licensing Committee cancels a licence pursuant to section 37 (1) (a), (b) or (c) or notifies a licensee of the imposition by the Licensing Committee of a condition or restriction in respect of his licence or the variation of such a condition or restriction, the licensee may, in the manner prescribed by rules of court and within the time so prescribed, appeal to the District Court against the cancellation, imposition or variation.

(2) On an appeal under subsection (1), the District Court may uphold the appeal or confirm the decision of the Licensing Committee or may substitute for the decision appealed against a decision that the Licensing Committee is empowered to make and—

- (a) any such substituted decision shall be deemed always to have been the decision of the Licensing Committee instead of the decision for which it is substituted; and
- (b) subsection (1) does not apply to or in respect of any such substituted decision.

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Register of Licences.

39. The Licensing Committee shall establish and maintain a Register of Licences containing details of—

- (a) licences issued;
- (b) variations of hen quotas;
- (c) the surrender of licences;
- (d) the re-issue of licences;
- (e) the price paid for the transfer of a hen quota as a result of the surrender and re-issue of a licence; and
- (f) such other matters relating to licences as the Licensing Committee may determine.

DIVISION 3.—*Hen quotas and State Hen Quota.*

State Hen Quota.

40. (1) For the purposes of this Act, the number of hens that constitutes the State Hen Quota is the number notified by the Minister, by order published in the Gazette, as the State Hen Quota.

(2) The Licensing Committee may make recommendations to the Minister for and with respect to variations to the State Hen Quota.

(3) A variation by way of reduction in the State Hen Quota shall take effect on such day as is specified in the order by which the variation is effected, being a day that is—

- (a) where the variation represents a reduction in the State Hen Quota of 5 per cent or less—at least one month after the date of publication of the order in the Gazette; or

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- (b) where the variation represents a reduction in the State Hen Quota of more than 5 per cent—at least 3 months after the date of publication of the order in the Gazette.

Hen quotas.

41. The hen quota of a licensee shall, subject to this Act, be as specified in his licence.

Variation of State Hen Quota.

42. (1) Where the State Hen Quota notified under section 40 is varied by the Minister by an order under that section or the Licensing Committee recommends to the Minister that the State Hen Quota be so varied, the Licensing Committee shall prepare in writing a scheme for the variation of all hen quotas, being a scheme whereby—

- (a) the aggregate of all hen quotas does not exceed the State Hen Quota notified by that further order;
- (b) as far as practicable, but without affecting the operation of paragraph (c), (d), (e) or (f), the proportionate variation is the same for all hen quotas;
- (c) the hen quota of a licensee who is not associated with another licensee as referred to in subsection (8) which is 5,000 or more is not reduced below 5,000;
- (d) where the total of the hen quota of a licensee and the hen quota of each licensee who is associated with that licensee as referred to in subsection (8) is 5,000 or more, that total is not reduced below 5,000 but where that total is reduced to 5,000, the proportionate reduction is the same for each hen quota that comprises part of that total;
- (e) the hen quota of a licensee who is not associated with another licensee as referred to in subsection (8) which is less than 5,000 is not reduced; and
- (f) where the total of the hen quota of a licensee and the hen quota of each licensee who is associated with that licensee as referred to in subsection (8) is less than 5,000, that total is not reduced,

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

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(2) Where a scheme is submitted to the Minister under subsection (1), the Minister may—

- (a) adopt the scheme;
- (b) adopt the scheme with such modifications (other than modifications affecting the requirements of subsection (1) (c), (d), (e) or (f)) as the Minister deems expedient and notifies to the Licensing Committee in writing; or
- (c) reject the scheme and direct the Licensing Committee to submit another scheme that complies with subsection (1),

but the scheme shall not be adopted unless the variation to the State Hen Quota to which the scheme relates has been effected.

(3) Where the Minister gives a direction under subsection (2) (c), the Licensing Committee shall submit a scheme in accordance with the direction within such time as the Minister allows and specifies in writing to the Licensing Committee, and subsection (2) shall apply to and in respect of a scheme so submitted as if it were a scheme submitted under subsection (1).

(4) Where the Minister adopts a scheme submitted to him under this section, or adopts such a scheme with modifications, the Licensing Committee shall issue to each licensee a licence which, subject to subsection (5)—

- (a) takes effect on a date specified in the licence; and
- (b) specifies his hen quota under the scheme, or under the scheme as modified.

(5) The Licensing Committee shall not, under subsection (4)—

- (a) issue licences which take effect on different days;
- (b) where hen quotas are reduced by 5 per cent or less, issue licences which take effect within one month of the date of their issue; or
- (c) where hen quotas are reduced by more than 5 per cent, issue licences which take effect within 3 months of the date of their issue.

(6) The provisions of Division 2 apply to and in respect of licences issued under this section.

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(7) Upon the licence of a person taking effect under this section, the previous licence of that person is deemed to be cancelled.

(8) For the purposes of subsection (1) (c), (d), (e) and (f), a licensee is associated with another licensee if—

- (a) they are members of a partnership;
- (b) they are corporations which, by virtue of section 7 (5) of the Companies (New South Wales) Code, are deemed to be related to each other or they are a corporation within the meaning of the Companies (New South Wales) Code and a director (within the meaning of that Code) of that corporation; or
- (c) the Licensing Committee believes on reasonable grounds that they are associated with each other in the keeping of hens under an agreement, arrangement or scheme effected under Division 4.

Voluntary suspension of whole or part of hen quota.

43. (1) The Corporation and a licensee may agree, in writing, that the whole or a specified part of the licensee's hen quota be suspended on such terms (including terms providing for payment of an amount by the Corporation in respect of the suspension) and for such period as may be specified in the agreement.

(2) During the period specified in an agreement in force under subsection (1), the licence shall be deemed not to authorise the keeping of hens to the extent to which the hen quota is expressed to be suspended.

(3) An agreement under subsection (1) may be varied or cancelled by a subsequent agreement on such terms as may be specified in the subsequent agreement.

(4) An agreement under this section has no effect unless approved by the Licensing Committee.

(5) Details of each agreement entered into under this section (including details of terms providing for payment of any amounts pursuant to each such agreement) shall be included in the relevant annual report of the Corporation forwarded to the Minister under section 64.

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DIVISION 4.—*Surrender and re-issue of licences.***Surrender, etc., of licences.**

44. (1) Subject to this Division, where a licensee applies to the Licensing Committee in or to the effect of a form approved by the Minister for the purposes of this section and pays the prescribed fee, the Licensing Committee may, upon the surrender to it of the applicant's licence—

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

as may be requested in the application.

(2) Subject to this Division, where a person referred to in section 32 (9) applies to the Licensing Committee in or to the effect of a form approved by the Minister for the purposes of this section and pays the prescribed fee, the Licensing Committee may, upon the surrender to it of the licence of which that person is deemed as referred to in section 32 (9) to be the holder, cancel that licence and issue a licence to that person.

(3) The Licensing Committee shall not issue a licence under subsection (1) (a) or (1) (c) (ii) to a person who is a licensee unless that licensee surrenders his licence to the Licensing Committee and the Licensing Committee cancels the surrendered licence.

(4) The provisions of Division 2 apply to and in respect of licences issued under this section.

(5) The Licensing Committee shall not approve an application under subsection (1) in so far as—

- (a) such an approval would increase the hen quota of a person, or the total of the hen quotas of the members of a partnership, to a number that is more than 100,000; or

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- (b) such an approval would increase to a number that is more than 100,000 the total of the hen quotas of—
- (i) a corporation;
 - (ii) the corporations which, by virtue of section 7 (5) of the Companies (New South Wales) Code, are deemed to be related to the corporation referred to in subparagraph (i); and
 - (iii) each person who is a director of any corporation referred to in subparagraph (i) or (ii).

(6) The Licensing Committee may refuse an application under subsection (1) where the Licensing Committee believes on reasonable grounds that the application is in furtherance of an agreement, arrangement or scheme under which the total of the hen quotas of any persons associated with each other with respect to the keeping of hens would be increased to a number that is more than 100,000.

(7) For the purposes only of subsections (5) and (6), and except as prescribed—

- (a) a person (including a partnership, a member of a partnership, a corporation or a director of a corporation) shall be deemed to have a hen quota if the person is specified in a licence as a producer or licensee; and
- (b) that hen quota shall be deemed to be equal to the hen quota specified in that licence,

and that hen quota shall be additional to any hen quota that he has apart from this subsection.

(8) The Licensing Committee may refuse an application under subsection (1) if the applicant does not disclose to the Licensing Committee the price paid or proposed to be paid for the transfer of the hen quota as a result of the surrender and re-issue of the licence.

(9) A reference in subsection (5) to a corporation or director is a reference to a corporation or director, as the case may be, within the meaning of the Companies (New South Wales) Code.

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Calculation of certain hen quotas.

45. (1) Where, pursuant to an application under section 44 (1) or (2)—

- (a) a licence is issued under section 44 (1) (a)—the hen quota of the licensee after the issue of the licence is the total of the hen quota of the applicant immediately before the cancellation of his licence and the hen quota, if any, of the licensee immediately before the issue of the licence;
- (b) a licence is issued under section 44 (1) (b)—the hen quota of the licensee remains unchanged;
- (c) a licence is issued under section 44 (1) (c) (i)—the hen quota of the licensee after the issue of the licence is the reduced hen quota approved pursuant to the application;
- (d) a licence is issued pursuant to section 44 (1) (c) (ii)—the hen quota of the licensee after the issue of the licence is the total of the hen quota equal to the reduction effected under paragraph (c) and the hen quota, if any, of the licensee immediately before the issue of the licence; or
- (e) a licence is issued pursuant to section 44 (2)—the hen quota of the licensee after the issue of the licence is the total of the hen quota of the person who was the holder of the licence which was surrendered in connection with the application and the hen quota, if any, of the licensee immediately before the issue of the licence.

(2) A licence issued under section 44 shall, subject to section 46, specify the hen quota of the licensee determined in accordance with subsection (1).

Issue of licences under section 44 before variation in State Hen Quota takes effect.

46. (1) The Licensing Committee shall not issue a licence under section 44 unless any licence which has not taken effect and which was issued under section 42 (4) to a person making the application for, or who is issued with, the licence under section 44 is surrendered to the Licensing Committee and the Licensing Committee cancels the surrendered licence.

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(2) The hen quota specified in a licence issued under section 44 (1) (a), (1) (b) or (2) upon the cancellation of a licence under subsection (1) shall—

- (a) in respect of the period before the day that the cancelled licence would, but for subsection (1), have taken effect—be the hen quota determined in accordance with section 45; and
- (b) in respect of the period on and after that day—be the total of the hen quota specified in the cancelled licence of the person making the application for the licence under section 44 and the hen quota, if any, of the licensee specified in his cancelled licence.

(3) The hen quota specified in a licence issued under section 44 (1) (c) (i) upon the cancellation of a licence under subsection (1) shall—

- (a) in respect of the period before the day that the cancelled licence would, but for subsection (1), have taken effect—be the hen quota determined in accordance with section 45; and
- (b) in respect of the period on and after that day—be the hen quota specified in the cancelled licence of the licensee reduced by the same proportion as that by which the hen quota of the licensee is reduced before that day pursuant to the application approved under section 44 (1) (c).

(4) The hen quota specified in a licence issued under section 44 (1) (c) (ii) upon the cancellation of a licence under subsection (1) shall—

- (a) in respect of the period before the day that the cancelled licence would, but for subsection (1), have taken effect—be the hen quota determined in accordance with section 45; and
- (b) in respect of the period on and after that day—be the total of the hen quota equal to the reduction affected under subsection (3) (b) and the hen quota, if any, of the licensee specified in his cancelled licence.

DIVISION 5.—Permits to keep hens for breeding purposes.

Licensing Committee may grant certain permits.

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

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

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

(4) Nothing in this section affects the power under section 49 to cancel a permit under this section.

(5) Subject to this Part, a permit under this section continues in force during the period specified in the permit, but this subsection does not operate to prevent the Licensing Committee from granting a permit under this section to a licensee who holds such a permit that is about to expire or to a licensee who held such a permit that has expired.

(6) A licensee who contravenes or fails to comply with a condition, to which a permit issued to him under this section is subject, is guilty of an offence against this Act and liable to a penalty not exceeding \$2,000 and, in addition, a penalty not exceeding \$500 for every day during which the offence continues.

DIVISION 6.—*General.*

Licensing Committee may require additional information from poultry farmers.

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

(2) The Licensing Committee may require information furnished by an applicant under subsection (1) to be verified by statutory declaration.

(3) Where the Licensing Committee requires a person to furnish information under this section and has not issued him with a licence, it may delay doing so until the information has been furnished.

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Licence or permit may be cancelled in certain circumstances.

49. Where the Licensing Committee is satisfied that a person to whom a licence or permit was issued under this Act or the Egg Industry Stabilisation Act, 1971, was not entitled to the licence or permit or furnished false or misleading information in connection with an application, the Licensing Committee may cancel the licence or permit.

Surrender of cancelled licence.

50. Where a licence is cancelled otherwise than pursuant to section 44, the former holder of the licence shall, if required by the Licensing Committee to forward the licence to it within a specified period, comply with that requirement.

PART VI.**INSPECTION.****Appointment of inspectors.**

51. (1) The Corporation may authorise an officer of the Corporation to be an inspector for the purposes of this Act and any person so authorised shall be such an inspector.

(2) An inspector shall be provided by the Corporation with a certificate of identification in the prescribed form.

Powers of inspectors.

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

- (a) enter and remain in or on any land, premises, place or vehicle which is, or which he believes on reasonable grounds is—
 - (i) being used for or in connection with the operations of a poultry farm or chicken hatchery;
 - (ii) being used as a poultry farm or chicken hatchery; or

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- (iii) being used for the storage or custody of any accounts, records, books, documents or other things whatever relating to the operations of a poultry farm or chicken hatchery;
- (b) search and inspect any such land, premises, place or vehicle for the presence of, and examine and count, any hen, pullet or broiler breeder hen, accounts, records, books, documents, goods, packages, parcels or other things found therein or thereon relating to the operations of a poultry farm or chicken hatchery;
- (c) takes copies of, or extracts or notes from, any such accounts, records, books, documents or other things; or
- (d) require any person found in or on any such land, premises, place or vehicle to produce any such accounts, records, books, documents, goods, packages, parcels or other things in the possession or under the control of that person which relate to, or which the inspector believes on reasonable grounds relate to, the operations of a poultry farm or chicken hatchery.

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

(3) Where a part of premises is used for residential purposes, an inspector is not, without the permission of the occupier of that part of those premises, authorised by this section to enter in or on, or to search or inspect, that part of those premises and subsection (1) (d) does not apply to a person in or on that part of those premises.

(4) Upon complaint made by an inspector on oath before a justice of the peace stating that the inspector has been delayed, obstructed, hindered or impeded in the exercise of his functions under subsection (1), and upon reasonable grounds being shown in the complaint for the inspector's statement, the justice of the peace may grant a warrant authorising the inspector, and any member of the police force accompanying him, to enter, using such force as is reasonably necessary, the land, premises or place named in the warrant for the purposes of exercising his functions under subsection (1).

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(5) An inspector shall exercise his powers to enter any land, premises or place under this section only between the hours of 7.00 a.m. and 7.00 p.m.

Seizure.

53. (1) For the purposes of this section, the permissible number of hens is the number of hens that may be kept in the relevant circumstances without becoming liable to a penalty under this Act, having regard to any relevant exemption or hen quota.

(2) Upon complaint made by an inspector on oath before a stipendiary magistrate stating that the inspector suspects that the number of hens being kept by a person exceeds the permissible number, and upon reasonable grounds being shown in the complaint for the inspector's statement, the magistrate may grant a warrant authorising the inspector, and any member of the police force accompanying him, to enter, using such force as is reasonably necessary, the land, premises or place named in the warrant for the purpose of exercising his functions under this section.

(3) Where an inspector, in accordance with a warrant under this section, enters any land, premises or place and finds, or reasonably suspects, that the number of hens being kept by a person exceeds the permissible number, he may seize such number of hens as exceeds the permissible number, together with any eggs apparently laid by those hens.

(4) Where, within 7 days after the seizure, a person claiming the hens or eggs—

- (a) complains of the seizure to a justice of the peace; and
- (b) lodges with the Corporation a notice in writing containing the prescribed particulars of his complaint,

the complaint shall be heard and determined by any stipendiary magistrate who may either confirm or disallow the seizure and may—

- (c) where he disallows the seizure, make such order as to compensation as he thinks fit; and

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(d) whether he confirms or disallows the seizure, make such order as to costs as he thinks fit.

(5) At the hearing of a complaint, it is the responsibility of the Corporation to satisfy the stipendiary magistrate that the seizure complained of should not be disallowed.

(6) If the regulations so provide, compensation shall be determined for the purposes of this section on any prescribed basis or in accordance with any prescribed principles.

(7) Any hens or eggs seized under this section become the property of the Corporation and may be dealt with as the Corporation thinks fit.

(8) If any person without the permission of an inspector removes or takes away any hens or eggs seized in accordance with this section, that person, in addition to any other punishment to which he may be liable, is guilty of an offence against this Act.

(9) An inspector who proposes to seize hens under this section shall, as far as practicable, comply with any reasonable request of the person apparently for the time being in charge of the land, premises or place, as to which of the hens being kept there should be seized, but any failure to comply with this subsection does not invalidate the seizure and does not constitute a ground for disallowing the seizure.

(10) An inspector may, subject to the terms of the relevant warrant, exercise his powers to enter any land, premises or place under this section at any time.

Demanding name and place of abode.

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

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(2) A person who upon demand made under subsection (1)—

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

is guilty of an offence against this Act.

Offences.

55. (1) A person who—

- (a) delays, obstructs, hinders or impedes an inspector in the exercise of his functions under this Act or the regulations; or
- (b) fails to comply with any requirement made under section 52 (1) (d),

is guilty of an offence against this Act.

(2) A person who—

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

is guilty of an offence against this Act.

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PART VII.

FINANCIAL PROVISIONS.

Interpretation: Pt. VII.

56. In this Part, "authority" means the Corporation or the Licensing Committee.

Accounts to be kept.

57. (1) Each authority shall cause to be kept proper accounts and records in relation to all of its operations.

(2) Each authority shall, as soon as practicable, but within 6 months, after the end of each financial year of the authority, prepare and forward to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts of an authority shall—

- (a) be in a form approved by the Auditor-General;
- (b) include such information as is requested by him; and
- (c) exhibit a true and fair view of the financial position and transactions of the authority.

(4) Each authority shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall—

- (a) state that he has audited the accounts of the authority relating to the relevant financial year;
- (b) indicate whether the statement of accounts complies with subsection (3); and

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(c) set forth any qualifications subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of each authority shall be the year commencing on 1st July.

Audit.

58. (1) The accounts and records of financial transactions of each authority, and the records relating to assets of or in the custody of the authority, shall be inspected and audited by the Auditor-General.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the authority and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a person engaged in the administration of this Act, to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty: \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

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(5) The Auditor-General shall report to the authority and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the authority shall pay to the Consolidated Fund such amounts, at such times, as the Treasurer decides.

Charges and fees.

59. Where an authority supplies any service or commodity, it may make, demand, levy and recover such charges and fees as may be prescribed or where no charge or fee is prescribed such charges and fees as may be fixed by it, subject to the maximum (if any) prescribed.

Reserves.

60. The Corporation may create and use such reserves as it considers necessary or expedient for the purposes of this Act.

Costs, etc., of Licensing Committee.

61. (1) The remuneration (including any allowances) payable to the members of the Licensing Committee and the costs of administration of this Act by the Licensing Committee shall be paid by the Corporation out of the funds of the Corporation.

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

(3) Except as prescribed, the Licensing Committee shall not make a payment out of money received by it other than a payment under subsection (2) or section 58 (6).

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PART VIII.

MISCELLANEOUS.

Union Consultative Committee.

62. (1) There is hereby constituted a Union Consultative Committee (referred to in this section as "the Committee").

(2) The Committee shall consist of 6 persons who shall be appointed by the Minister on the nomination of the Labor Council of New South Wales.

(3) A person holds office as a member of the Committee until—

- (a) he dies;
- (b) he resigns his office by writing under his hand addressed to the Minister; or
- (c) a person is appointed to be a member of the Committee as his successor.

(4) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member of the Committee, and such a member is not, as a member, subject to that Act during his term of office as a member.

(5) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings (including the constitution of a quorum) shall, subject to any procedure that is prescribed by the regulations, be as determined by the Committee.

Function of Union Consultative Committee.

63. The function of the Union Consultative Committee shall be to meet at least 6 times in each year with the Managing Director of the Corporation to discuss matters of mutual concern affecting the functions of the Corporation.

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Annual reports.

64. (1) In this section, "authority" means the Corporation or the Licensing Committee.

(2) As soon as practicable after 30th June, but on or before 31st December, in each year, each authority shall prepare and forward to the Minister a report of its work and activities for the 12 months ending on 30th June in that year.

(3) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after the receipt by him of the report.

Records to be kept by certain persons.

65. (1) A person who—

- (a) keeps more than 20 broiler breeder hens; or
- (b) owns or occupies any land, premises or place in or at which hen eggs from more than 20 hens are hatched,

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

(2) A person referred to in subsection (1) shall—

- (a) keep the records so referred to for a period of 2 years after they are made; and
- (b) at the prescribed times deliver to the prescribed person copies of those records or such of them as relates to prescribed times or matters.

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

(4) A person who knowingly makes or causes or permits or allows to be made any false or misleading statement in any record required to be made under this section, or in any copy (or purported copy) of that record required to be delivered under subsection (2) (b), is guilty of an offence against this Act and liable to a penalty not exceeding \$1,000.

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Offences by members and officers.

66. (1) In this section, a reference to a member or officer is a reference to a member or officer of the Corporation or of the Licensing Committee.

(2) Any member or officer who, without lawful authority, demands or receives from any person any payment, gratuity or present in consideration of doing or omitting to do some act or thing pertaining to his office or employment under this Act or the regulations is guilty of an offence against this Act and liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 2 years or both.

(3) Any person who, without lawful authority, makes or gives to a member or officer any payment, gratuity or present in consideration that the member or officer will do or omit to do some act or thing pertaining to his office or employment under this Act or the regulations is guilty of an offence against this Act and liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding 2 years or both.

Penalty.

67. Any person who contravenes or fails to comply with a provision of this Act for which no penalty is otherwise expressly provided is guilty of an offence against this Act and liable to a penalty not exceeding \$1,000.

Proceedings.

68. (1) Subject to subsection (5), all proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) An information for an offence against this Act or the regulations may be laid in the name of the Corporation or Licensing Committee by an officer of the Corporation or Licensing Committee, authorised by the Corporation or Licensing Committee to lay informations on behalf of the Corporation or Licensing Committee, as respectively the case may require.

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(3) Any prosecution instituted in the name of the Corporation or Licensing Committee shall, in the absence of evidence to the contrary, be deemed to have been instituted by the authority of the Corporation or Licensing Committee, as respectively the case may require.

(4) Nothing in subsection (2) prevents an information for an offence against this Act or the regulations from being laid in any other manner.

(5) Notwithstanding the provisions of the Justices Act, 1902, where any person is, by any conviction or order adjudged to pay any fine, penalty, sum of money or costs in respect of an offence against this Act or the regulations—

- (a) that person shall not be adjudged to be, or be, liable to imprisonment in default of payment of the amount of that fine, penalty, sum of money or costs; and
- (b) that conviction or order shall, irrespective of the amount adjudged to be paid, operate, and be enforceable in the same way, as a judgment of a court of petty sessions under the Courts of Petty Sessions (Civil Claims) Act, 1970.

(6) Judgment may be entered up in the records of any court of petty sessions for the amount adjudged to be paid by a conviction or order referred to in subsection (5).

Offences by corporations.

69. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each director of the corporation, and each person concerned in 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; or
- (c) he, being in such a position, used all due diligence to prevent the contravention by the corporation.

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

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

Evidentiary provisions.

70. (1) In any proceedings—

- (a) any notification, requisition, direction, demand, order or other document in writing, purporting to be signed or made or sent by the Corporation, the Managing Director of the Corporation, the Licensing Committee, the Chairman of the Licensing Committee or the Minister shall be judicially noticed;
- (b) the averment on behalf of the Corporation or Licensing Committee that anything was or is an egg or egg product to which the provisions of this Act are applicable, or was or is an egg or egg product mentioned or included in any instrument or document, or that any place is a place in New South Wales, or that any person was or is a producer, or was or is an authorised agent, shall be *prima facie* evidence of that fact;
- (c) any document or anything purporting to be a copy of or extract from any document containing any reference to any matter or thing alleged to be done in contravention of this Act or the regulations shall, upon proof that it was produced by or came from the custody of a person who is a defendant or respondent or is charged with an offence, or a responsible officer or a representative of that person, be admissible in evidence against that person and be evidence—
 - (i) of the matters and things thereby appearing;
 - (ii) that the document (or, in the case of a copy, that the original thereof) was written, signed, despatched and received by the persons by whom it purports to have been written, signed, despatched and received; and
 - (iii) that any such copy or extract is a true copy of or extract from the original of or from which it purports to be a copy or extract; and

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- (d) a certificate purporting to be signed by the prescribed officer of the Corporation and certifying that on a specified date or during the whole of a specified period any person was or was not registered with the Corporation as a producer shall be admissible and be evidence of the matters specified in the certificate.

(2) In any proceedings, a certificate purporting to be signed by the Chairman of the Licensing Committee and certifying that—

- (a) a specified person is not, or at any time specified in the certificate was not, the holder of a licence;
- (b) a licence or permit under Part V is, or at any time specified in the certificate was, subject to specified conditions or restrictions;
- (c) a licence or permit under Part V relates to a specified place; or
- (d) a specified person's hen quota is, or at any time specified in the certificate was, a specified number,

shall be admissible and be evidence of the matters specified in the certificate.

(3) In any proceedings, the Register of Licences referred to in section 39 shall be admissible and be evidence of the matters specified in it.

(4) In any proceedings, a document purporting to be certified by the Managing Director or a prescribed officer of the Corporation to be a copy of an entry in the Register of Licences referred to in section 39 shall be admissible and be evidence of the matters specified in it.

Service of notices:

71. Any notice that is required to be given or that may be given by the Corporation or the Licensing Committee under this Act or the regulations shall be deemed to have been duly given if sent by post in a letter addressed to the person to be served at his place of abode or business in New South Wales last known to the Corporation or the Licensing Committee, as the case may be, and the notice shall be deemed to have been given at the time when a letter so posted should in the ordinary course of post be delivered.

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Repeals.

72. The Acts specified in Schedule 1 are repealed.

Abolition of Egg Marketing Board.

73. The Egg Marketing Board for the State of New South Wales is abolished.

Abolition of former Licensing Committee.

74. The Poultry Farmer Licensing Committee as constituted under the Egg Industry Stabilisation Act, 1971, is abolished.

Validation.

75. Any act, matter or thing done or omitted to be done before the day appointed and notified under section 2 (2) by an officer or servant of The Egg Marketing Board for the State of New South Wales, including the issue of any licence or permit, and the determination of any hen quota, under the Egg Industry Stabilisation Act, 1971, shall, if it could have validly been done or omitted to be done by the Poultry Farmer Licensing Committee under or for the purposes of that Act, be as valid and effectual, and shall be deemed always to have been as valid and effectual, as if it had been done or omitted to be done by that Committee.

Savings, transitional and other provisions.

76. Schedule 4 has effect.

Regulations.

77. (1) 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

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carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) any of the functions conferred or imposed upon the Minister, the Corporation or the Licensing Committee by or under this Act;
- (b) the making and keeping of records by a producer, a licensee or the holder of a permit issued under this Act, the inspection of those records and the production of those records in any legal proceedings;
- (c) the certificates and other forms which are to be or may be used for the purposes of this Act;
- (d) the business, proceedings and meetings of the Corporation, the Licensing Committee or the Union Consultative Committee;
- (e) the signing of documents relating to the Corporation or the Licensing Committee;
- (f) authorising the Corporation in any sale or agreement for sale of eggs or egg products by the Corporation to any person to insert conditions and to fix a sum by way of liquidated damages for any breach of conditions (which damages shall be recoverable accordingly);
- (g) ascertaining whether eggs are of the required quality or grade and prescribing a standard therefor, and providing for an increase or decrease in the price otherwise payable to any producer or other person for any eggs delivered by him or any other person to the Corporation according to the quality or grade of the eggs;
- (h) ascertaining whether eggs are of the required quality or grade and prescribing a standard therefor so as to ensure that eggs, whether they are or have, at any time, been vested in the Corporation and whether produced in New South Wales or elsewhere shall comply with prescribed standards of quality and grade when sold by wholesale or retail in New South Wales;
- (i) regulating—
 - (i) the collecting, grading, packing, treating, carrying, storing, marketing, branding, distributing, supplying, selling and exporting by the Corporation or any other person; and
 - (ii) the delivery by or to the Corporation or by or to any other person,

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of any eggs, whether they were produced within New South Wales or elsewhere and whether they are or were at any time owned by the Corporation or not, or of any egg products;

- (j) the control and management and expenditure of the funds of the Corporation or the Licensing Committee;
- (k) requiring producers of eggs to register and re-register with the Corporation at the prescribed times their names and such other particulars as may be prescribed, and requiring a producer on ceasing to produce eggs to notify the Corporation thereof;
- (l) regulating the marketing, selling, branding or stamping, storing or cold storing by any person of any eggs, whether they were produced within New South Wales or elsewhere and whether they are or were at any time owned by the Corporation or not;
- (m) the duties of care or precaution to be taken and methods to be used by the Corporation or any other person in the display of any eggs for sale or in storage, treatment or custody of any eggs held or offered for sale, whether in any of those cases the eggs were produced within New South Wales or elsewhere and whether in any of those cases the eggs are or were at any time owned by the Corporation or not;
- (n) establishing grades, classes or descriptions of eggs and egg products; and
- (o) fixing any penalties not exceeding \$1,000 or, in the case of a continuing offence, not exceeding \$100 for each day during which the offence continues, for non-compliance with or contravention of any regulation.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

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SCHEDULE 1.

(Sec. 72.)

REPEALS.

Year and number of Act	Short title of Act.
1971, No. 74	Egg Industry Stabilisation Act, 1971.
1972, No. 73	Egg Industry Stabilisation (Amendment) Act, 1972.
1977, No. 45	Egg Industry Stabilisation (Amendment) Act, 1977.
1978, No. 48	Egg Industry Stabilisation (Amendment) Act, 1978.

SCHEDULE 2.

(Sec. 8.)

CONSTITUTION AND PROCEDURE OF THE CORPORATION.

Interpretation: Sch. 2.

1. In this Schedule—

“Chairman” means the Chairman of the Corporation;

“elected member” means a member referred to in section 8 (4) (c) (ii);

“election” means an election referred to in clause 3 (1);

“Managing Director” means the Managing Director of the Corporation;

“member” means a member of the Corporation, and includes the Managing Director;

“part-time member” means a member of the Corporation other than the Managing Director.

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SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.***Provisions as to members nominated to represent producers.**

2. (1) The persons to be nominated pursuant to section 8 (4) (c) (i) and to hold office during the whole or any part of the period of 3 years commencing on the day appointed and notified under section 2 (2) shall be chosen—

- (a) from among such of the persons holding office as members of The Egg Marketing Board for the State of New South Wales immediately before being nominated or immediately before that day (whichever first occurs) as have the necessary qualifications referred to in subclause (2) and as agree in writing to be nominated; or
- (b) to the extent that there is an insufficient number of those persons—from among such other persons as have the necessary qualifications referred to in subclause (2).

(2) For the purposes of this clause, a person has the necessary qualifications if—

- (a) he was or is deemed to have been the holder of a licence under this Act or the Egg Industry Stabilisation Act, 1971, for the whole of the period of 3 years immediately preceding his nomination; and
- (b) the hen quota under this Act or the Egg Industry Stabilisation Act, 1971, as the case may require, in respect of the relevant licence was 1,000 or more during the whole of that period.

Provisions as to elected members.

3. (1) The regulations may, subject to this Act, make provision for or with respect to the election of persons for appointment as the elected members.

(2) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations in relation to the election.

(3) Elections shall be conducted on the basis of a statewide electorate not divided into electoral districts.

(4) The persons entitled to vote in accordance with the regulations at an election shall be persons having such qualifications as may be prescribed.

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SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.*

(5) A person's nomination as a candidate for election as a member is invalid if—

- (a) the person is not entitled to vote at the election; or
- (b) the person does not have the necessary qualifications referred to in subclause (6).

(6) For the purposes of subclause (5), a person has the necessary qualifications if—

- (a) he was or is deemed to have been the holder of a licence for the whole of the period of 3 years immediately preceding his nomination; and
- (b) his hen quota was 1,000 or more during the whole of that period.

(7) To the extent that there is a failure to nominate a sufficient number of persons, or to the extent that an election fails for any other reason, the Governor may appoint a person or persons nominated by the Minister to be a member or members, and a person so nominated shall, on being appointed, be deemed to be a person elected in accordance with the regulations.

Age of member.

4. A person who is of or above the age of 65 years is not eligible for appointment as a member, or to act in the office of a member under clause 6.

Term of office.

5. The term of office of a member shall be, and, unless he vacates his office during his term, a member shall hold office for—

- (a) where he is the Managing Director—such period not exceeding 6 years; or
- (b) where he is a part-time member—such period not exceeding 3 years,

as may be specified in the instrument appointing him.

Acting members.

6. (1) The Minister may, from time to time, appoint a person to act in the office of a member (other than the office of Chairman or Managing Director) during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

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SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.*

(2) The Minister may, from time to time, appoint a part-time member to act in the office of Chairman during the illness or absence of the Chairman, and the part-time member, while so acting, shall have and may exercise all the functions of the Chairman.

(3) The Minister may, from time to time, appoint an officer of the Corporation to act in the office of Managing Director during the illness or absence of the Managing Director, and the person so appointed, while so acting, shall have and may exercise all the functions of the Managing Director.

(4) The Minister may, for any cause which appears to him sufficient, remove any person from any office to which he was appointed under subclause (1), (2) or (3).

(5) Any person while acting in the office of a member is entitled to receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

(6) For the purposes of this clause—

- (a) a vacancy in the office of a member shall be deemed to be an absence from office of the member; and
- (b) a part-time member shall be deemed to be absent from his office as a part-time member during any period that he acts in the office of the Chairman pursuant to an appointment under subclause (2).

Managing Director.

7. The Managing Director shall devote the whole of his time to the duties of his office, except as permitted by this Act or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

Remuneration.

8. (1) The Managing Director is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

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SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.***Filling of vacancy in office of member.**

9. In the event of the office of any member becoming vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

10. (1) A member shall be deemed to have vacated his office if—
- (a) he dies;
 - (b) being a part-time member, he absents himself from 4 consecutive meetings of the Corporation of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
 - (c) being Managing Director, he absents himself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
 - (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;
 - (e) 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;
 - (f) he is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - (g) being Managing Director, he engages during his term of office in any paid employment outside the duties of his office, except with the consent of the Minister (which consent the Minister is hereby authorised to give);
 - (h) being a member referred to in section 8 (4) (c)—
 - (i) he is not, or is not deemed to be, a licensee; or
 - (ii) the hen quota in respect of the licence which he holds, or is deemed to hold, is less than 1,000;
 - (i) he contravenes the provisions of clause 11;

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SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.*

- (j) he resigns his office by writing under his hand addressed to the Minister;
- (k) he attains the age of 65 years;
- (l) being Managing Director, he is retired from office by the Governor under subclause (2); or
- (m) he is removed from office by the Governor under subclause (3).

(2) The Managing Director may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) The Governor may, for any cause which appears to him sufficient, remove a member from office.

Disclosure of pecuniary interests.

11. (1) A member who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Corporation; or
- (b) in a thing being done or about to be done by the Corporation,

shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Corporation.

(2) A disclosure by a member at a meeting of the Corporation that—

- (a) he is a member or is in the employment of a specified company or other body;
- (b) he is a partner or is in the employment of a specified person; or
- (c) he has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of his interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Corporation shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Corporation from time to time.

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SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.*

(4) After a member has, or is deemed to have, disclosed the nature of his interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

(a) be present during any deliberation of the Corporation, or take part in any decision of the Corporation, with respect to that matter; or

(b) exercise any of his functions under this Act with respect to that thing, as the case may require.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Corporation or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is a producer.

Effect of certain other Acts.

12. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act during his term of office as a member.

(2) Where by or under any other Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to him under this Act as a part-time member.

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

Preservation of rights of Managing Director previously public servant, etc.

13. (1) In this clause—

“statutory body” means any body declared under clause 15 to be a statutory body for the purposes of this Schedule;

*Egg Industry.*SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.*

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of his appointment, where the Managing Director was, immediately before his appointment as Managing Director—

- (a) an officer of the Public Service or a Teaching Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Managing Director; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as Managing Director and—

- (h) his service as Managing Director shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (i) he shall be deemed to be an officer or employee, and the Corporation shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If the Managing Director would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he shall not be so entitled upon his becoming (whether upon his appointment as Managing Director or at any later time while he holds office as Managing Director) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him and the Corporation in any case where he becomes a contributor to such another superannuation scheme.

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SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.*

(4) Subclause (3) does not prevent the payment to the Managing Director upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of the scheme.

(5) The Managing Director shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Managing Director entitled to re-appointment to former employment in certain cases.

14. (1) In this clause, "statutory body" means any body declared under clause 15 to be a statutory body for the purposes of this Schedule.

(2) A person who—

- (a) ceases to be Managing Director by reason of the expiration of his term of office or by reason of his resignation;
- (b) was, immediately before his appointment as Managing Director—
 - (i) an officer of the Public Service or a Teaching Service; or
 - (ii) an officer or employee of a statutory body; and
- (c) has not attained the age at which he would have been entitled to retire had he continued to be such an officer or employee,

shall be entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that statutory body, as the case may be, not lower in classification and salary than that which he held immediately before his appointment as Managing Director.

(3) Where subclause (2) does not apply to a person who—

- (a) was, immediately before his appointment to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (b); and
- (b) is, after that appointment, appointed as Managing Director,

he shall have such rights (if any) to appointment as such an officer or employee, in the event of his ceasing to be Managing Director, as are specified in the instrument appointing him as Managing Director or as are agreed upon by him and by or on behalf of the Government.

Egg Industry.

SCHEDULE 2—*continued.*CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.***Declaration of statutory bodies.**

15. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

General procedure.

16. The procedure for the calling of meetings of the Corporation and for the conduct of business at those meetings shall, subject to any procedure that is specified in this Act or prescribed by the regulations, be as determined by the Corporation.

Quorum.

17. Four members, of whom one shall be the person appointed or acting as Managing Director, shall form a quorum and any duly convened meeting of the Corporation at which a quorum is present shall be competent to transact any business of the Corporation and shall have and may exercise all the functions of the Corporation.

Presiding member.

18. (1) The Chairman or, in the absence of the Chairman, another part-time member elected as chairman for the meeting by the members present shall preside at a meeting of the Corporation.

(2) The person acting as chairman at any meeting of the Corporation shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

19. A decision supported by a majority of the votes cast at a meeting of the Corporation at which a quorum is present shall be the decision of the Corporation.

Egg Industry.

SCHEDULE 2—*continued.*

CONSTITUTION AND PROCEDURE OF THE CORPORATION—*continued.*

Minutes.

20. The Corporation shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Corporation and shall submit to the Minister a copy of the minutes of each meeting within 2 weeks after the day on which it is held or within such other period as the Minister may from time to time determine.

First meeting of Corporation.

21. The Minister shall call the first meeting of the Corporation in such manner as he thinks fit.

Liability of members, etc.

22. No matter or thing done by the Corporation, and no matter or thing done by any member or by any person acting under the direction of the Corporation shall, if the matter or thing was done bona fide for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

Egg Industry.

SCHEDULE 3.

(Sec. 12.)

CONSTITUTION AND PROCEDURE OF THE LICENSING COMMITTEE.

Interpretation: Sch. 3.

1. In this Schedule—

“Chairman” means the Chairman of the Licensing Committee;

“member” means a member of the Licensing Committee, and includes the Chairman.

Age of member.

2. A person who is of or above the age of 65 years is not eligible for appointment as a member, or to act in the office of a member under clause 4.

Term of office.

3. The term of office of a member shall be, and, unless he vacates his office during his term, a member shall hold office for such period not exceeding 3 years as may be specified in the instrument appointing him.

Acting members.

4. (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

(2) The Minister may, from time to time, appoint a member to act in the office of Chairman during the illness or absence of the Chairman, and the member, while so acting, shall have and may exercise all the functions of the Chairman.

(3) The Minister may, for any cause which appears to him sufficient, remove any person from any office to which he was appointed under subclause (1) or (2).

(4) Any person while acting in the office of a member is entitled to receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Egg Industry.

SCHEDULE 3—*continued.*

CONSTITUTION AND PROCEDURE OF THE LICENSING
COMMITTEE—*continued.*

- (5) For the purposes of this clause—
- (a) a vacancy in the office of a member shall be deemed to be an absence from office of the member; and
 - (b) a member shall be deemed to be absent from his office as a member during any period that he acts in the office of the Chairman pursuant to an appointment under subclause (2).

Remuneration.

5. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

Filling of vacancy in office of member.

6. In the event of the office of any member becoming vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) A member shall be deemed to have vacated his office if—
- (a) he dies;
 - (b) he absents himself from 4 consecutive meetings of the Licensing Committee of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
 - (c) 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;
 - (d) 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;

Egg Industry.

SCHEDULE 3—*continued.*CONSTITUTION AND PROCEDURE OF THE LICENSING
COMMITTEE—*continued.*

- (e) he is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) being a member referred to in section 12 (4) (b), he ceases to be a member of the Corporation;
- (g) he resigns his office by writing under his hand addressed to the Minister;
- (h) he attains the age of 65 years; or
- (i) he is removed from office by the Minister under subclause (2).

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

Member not to vote on certain matters.

8. (1) A member shall not exercise his vote at a meeting of the Licensing Committee in respect of a matter that directly affects his pecuniary interests and, if he does so, his vote shall not be counted.

(2) A member shall leave a meeting of the Licensing Committee during any discussion on a matter in respect of which he is, by subclause (1), disqualified from voting.

Effect of certain other Acts.

9. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act during his term of office as a member.

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

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

Egg Industry.

SCHEDULE 3—*continued.*

CONSTITUTION AND PROCEDURE OF THE LICENSING
COMMITTEE—*continued.*

General procedure.

10. The procedure for the calling of meetings of the Licensing Committee and for the conduct of business at those meetings shall, subject to any procedure that is specified in this Act or prescribed by the regulations, be as determined by the Licensing Committee.

Quorum.

11. Three members shall form a quorum and any duly convened meeting of the Licensing Committee at which a quorum is present shall be competent to transact any business of the Licensing Committee and shall have and may exercise all the functions of the Licensing Committee.

Presiding member.

12. (1) The Chairman or, in the absence of the Chairman, another member elected as chairman for the meeting by the members present shall preside at a meeting of the Licensing Committee.

(2) The person acting as chairman at any meeting of the Licensing Committee shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

13. A decision supported by a majority of the votes cast at a meeting of the Licensing Committee at which a quorum is present shall be the decision of the Licensing Committee.

Minutes.

14. The Licensing Committee shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Licensing Committee and shall submit to the Minister a copy of the minutes of each meeting within 2 weeks after the day on which it is held or within such other period as the Minister may from time to time determine.

First meeting of Licensing Committee.

15. The Minister shall call the first meeting of the Licensing Committee in such manner as he thinks fit.

Egg Industry.

SCHEDULE 3—*continued.*CONSTITUTION AND PROCEDURE OF THE LICENSING
COMMITTEE—*continued.***Liability of members, etc.**

16. No matter or thing done by the Licensing Committee, and no matter or thing done by any member or by any person acting under the direction of the Licensing Committee shall, if the matter or thing was done bona fide for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

SCHEDULE 4.

(Sec. 76.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation: Sch. 4.

1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

“former Board” means The Egg Marketing Board for the State of New South Wales abolished by section 73;

“former Committee” means the Poultry Farmer Licensing Committee abolished by section 74.

Members of former bodies.

2. (1) A person who, immediately before the appointed day, held office as a member of the former Board or the former Committee—

(a) shall cease to hold office as such on the appointed day; and

(b) is eligible, if otherwise qualified, to be appointed as a member of the Corporation or Licensing Committee constituted by this Act.

(2) A member of the former Board or the former Committee who ceases to hold office as such by reason of the operation of subclause (1) is not entitled to be paid any remuneration or compensation by reason of his ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Minister determines out of the funds of the Corporation.

Egg Industry.

SCHEDULE 4—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Continuity of Corporation.

3. The Corporation is a continuation of, and the same legal entity as, the former Board.

Eggs to cease to be commodity under Marketing of Primary Products Act, 1927.

4. On the appointed day, eggs shall cease to be a commodity within the meaning of the Marketing of Primary Products Act, 1927.

Licences and permits under Egg Industry Stabilisation Act, 1971.

5. (1) A licence or permit issued under the Egg Industry Stabilisation Act, 1971, and as in force immediately before the appointed day shall continue in force and be deemed to have been issued under this Act, but shall cease to be in force at the end of the period of 3 months commencing on the appointed day (or such longer period as may be prescribed by regulations made under clause 13).

(2) Where a licence referred to in subclause (1) was issued under section 17 (2) of the Egg Industry Stabilisation Act, 1971, each member of the partnership to which the licence relates shall be deemed to be a licensee in respect of the licensed place to which the licence relates.

(3) Where a licence referred to in subclause (1) was issued under the Egg Industry Stabilisation Act, 1971, to a company, each director of the company shall be deemed to be a licensee in respect of the licensed place to which the licence relates.

(4) Where a licence referred to in subclause (1) was in force immediately before the day appointed and notified under section 2 (2) of the Egg Industry Stabilisation (Amendment) Act, 1977, the licence shall be deemed to include the condition referred to in section 18 (1) (a) of the Egg Industry Stabilisation Act, 1971, as amended by that Act, and to exclude the condition referred to in section 18 (1) (a) of the lastmentioned Act, as in force immediately before that day.

(5) This clause has effect notwithstanding anything in this Act that requires a licensee to be a natural person.

Egg Industry.

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Broiler breeder hens.**

6. Any order which was in force under section 3 (2) of the Egg Industry Stabilisation Act, 1971, immediately before the appointed day shall be deemed to be an order that has taken effect under section 4 (2) of this Act.

Exemptions.

7. Any order which was in force under section 4 of the Egg Industry Stabilisation Act, 1971, immediately before the appointed day shall be deemed to be an order in force under section 30 (2) of this Act exempting from all or any of the corresponding provisions of Part V, as the case may require.

State Hen Quota.

8. Any order which was in force under the Egg Industry Stabilisation Act, 1971, immediately before the appointed day and which constitutes the State Hen Quota immediately before that day shall be deemed to be an order made by the Minister for the purposes of section 40 of this Act.

Hen quotas.

9. The hen quota of a licensee whose licence is referred to in clause 5 (1) is on the appointed day the hen quota that he would have had if this Act had not been enacted.

First election.

10. If part of the period of 3 years immediately preceding a person's nomination as a candidate for election to the Corporation occurred before the appointed day, he shall be deemed to have the necessary qualifications referred to in clause 3 (6) of Schedule 2 if—

- (a) for the whole of that part of that period—
 - (i) he was the holder of a licence under the Egg Industry Stabilisation Act, 1971; or
 - (ii) he was a director of a company holding such a licence; and
- (b) the hen quota under that Act in respect of the relevant licence was 1,000 or more during the whole of that part of that period.

Egg Industry.

SCHEDULE 4—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Register of Licences.

11. Except in so far as the Minister otherwise directs, section 39 does not require details relating to licences issued before the appointed day to be included in the Register of Licences referred to in that section.

Contracts with former Board not avoided.

12. Section 22 does not apply to a contract entered into by the former Board.

Regulations.

13. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the Corporation, the Licensing Committee, the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the Corporation, the Licensing Committee, the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding any of the foregoing clauses of this Schedule.
