

FARM PRODUCE (AMENDMENT) ACT 1985 No. 233

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

\* \* \* \* \*

Act No. 233, 1985

An Act to amend the Farm Produce Act 1983 with respect to the disqualification of persons from holding licences under that Act and for other purposes. [Assented to, 18th December, 1985.]

*Farm Produce (Amendment) 1985*

---

**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:

**Short title**

1. This Act may be cited as the "Farm Produce (Amendment) Act 1985".

**Commencement**

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

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

**Principal Act**

3. The Farm Produce Act 1983 is referred to in this Act as the Principal Act.

**Schedules**

4. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO LICENCES

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT

**Amendment of Act No. 30, 1983**

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.
-

## SCHEDULE 1

(Sec. 5)

## AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCES

- (1) (a) Section 10 (1) (b), (d) and (i)—

Omit the paragraphs.

- (b) Section 10 (1) (c)—

Omit “or (b)”.

- (c) Section 10 (1) (h)—

After “dollar;”, insert “or”.

- (2) Section 10A—

After section 10, insert:

**Disqualification by registrar**

10A. (1) The grounds upon which the registrar may disqualify a person under this section from holding a licence are—

- (a) that the person has been, in or beyond the Commonwealth, convicted of an offence against this Act or the regulations, the Farm Produce Agents Act 1926 or any similar legislation of any other State, territory or country or a regulation made under that Act or legislation;
- (b) that the person has been, in or beyond the Commonwealth, convicted of an offence of attempting or conspiring to commit an offence referred to in paragraph (a);
- (c) that the person is subject to a composition or scheme of arrangement with creditors which was made or entered into by the person, in or beyond the Commonwealth, either individually or as a partner; or
- (d) that a licence held by the person under this Act, the Farm Produce Agents Act 1926 or any similar legislation of any other State, territory or country has been cancelled (otherwise than at the holder's own request).

(2) Where the registrar is satisfied that a ground exists upon which a person may be disqualified under this section from holding a licence, the registrar may—

*Farm Produce (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued*

- (a) by notice in writing served on the person, inform the person that the registrar proposes to disqualify the person from holding a licence and of the ground for doing so; and
  - (b) allow the person a period of 14 days to show cause why the person should not be disqualified from holding a licence.
- (3) Where, within the period allowed under subsection (2) (b), the person has not shown sufficient cause why the person should not be disqualified from holding a licence, the registrar may, by order in writing served on the person, disqualify the person from holding a licence for such period, not exceeding 5 years, as is specified in the order.
- (4) Where a person is disqualified under this section on the ground—
- (a) that the person has been convicted of an offence; or
  - (b) that a licence held by the person has been cancelled,
- the period of disqualification shall not expire later than 5 years after the date of the conviction or cancellation, as the case may be.
- (3) (a) Section 16 (1) (b)—  
After “section 10”, insert “or 10A”.
- (b) Section 16 (1) (c)—  
Omit “against section 22 or 24, whether or not he has”, insert instead “under section 22 or 24, notwithstanding that the holder has not”.
- (c) Sections 16 (3), 17 (2)—  
Omit “notice” wherever occurring, insert instead “an order”.
- (4) (a) Section 19 (1) (d)—

*Farm Produce (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
LICENCES—*continued*

Omit “under section”, insert instead “imposed by section 10 or under section 10A or”.

## (b) Section 19 (2A)—

After section 19 (2), insert:

(2A) A Judge in determining an appeal under subsection (1) shall have regard to the public interest in the orderly marketing of farm produce and the merits and circumstances of the particular case.

## (c) Section 19 (3) (a) (ii)—

Omit “or” where lastly occurring.

## (d) Section 19 (3) (a) (iii), (iv)—

Omit section 19 (3) (a) (iii), insert instead:

(iii) in the case of an appeal under subsection (1) (b) or (c), revoke the requirement or cancellation the subject of the appeal; or

(iv) in the case of an appeal under subsection (1) (d), lift or revoke the disqualification the subject of the appeal or, if appropriate, vary the period of the disqualification the subject of the appeal; and

## (5) Section 36—

After “notices”, insert “and orders”.

## SCHEDULE 2

(Sec. 5)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

## (1) Section 4 (1), definition of “producer”—

After the definition of “licensee”, insert:

*Farm Produce (Amendment) 1985*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

“producer” includes a rural society registered under the Co-operation Act 1923;

## (2) (a) Section 27 (1)—

Omit the subsection, insert instead:

(1) Except in accordance with the regulations, a farm produce seller shall not, directly or indirectly, alone or by a partner or subagent, sell any farm produce (being produce in respect of which the seller or a firm of which the seller is a member is acting as farm produce agent)—

(a) where the seller is a person other than a corporation—to a member of the seller’s family or to a corporation of which the seller is a director; or

(b) where the seller is a corporation—to a director of that corporation, to another corporation having one or more directors in common with that corporation or to a firm of which one or more of the members are directors of that corporation,

without having previously obtained consent in writing to the sale from the person on whose behalf the seller is acting as farm produce agent.

## (b) Section 27 (2)—

Omit “An employee”, insert instead “Except in accordance with the regulations, an employee”.

## (3) (a) Section 34 (2) (a)—

Omit “or”.

## (b) Section 34 (2) (b)—

Omit “change.”, insert instead “change;”.

## (c) Section 34 (2) (c), (d)—

After section 34 (2) (b), insert:

*Farm Produce (Amendment) 1985*

---

SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

- (c) changes the place at which the holder carries on business as a farm produce seller shall notify the registrar of the address at which the holder carries on that business within 7 days after the change; or
- (d) sells a business which consisted of or included the selling of farm produce shall notify the registrar of the sale and the name of the purchaser of the business within 7 days after the sale.

(4) Section 38 (3)—

Omit the subsection, insert instead:

(3) The registrar may give a report of the result of an inspection made under subsection (1) concerning a farm produce seller—

- (a) to a person for whom the seller acts or has acted as a farm produce agent or with whom the seller deals or has dealt as a farm produce merchant, in so far as the inspection directly concerns the person; and
- (b) to the seller.

(5) (a) Section 53 (1A)—

After section 53 (1), insert:

(1A) A document forming the whole or any part of an agreement in or to the effect of a prescribed form relating to the terms and conditions of sale of farm produce to or by a farm produce seller, being a document which contains particulars purporting to have been acknowledged by the signature of a party to the agreement, is admissible in evidence in any proceedings and is prima facie evidence in any proceedings brought against that party of the facts contained therein.

---

*Farm Produce (Amendment) 1985*

---

SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

## (b) Section 53 (2)—

After “produce”, insert “or a document referred to in subsection (1A)”.

## (6) (a) Section 55 (1) (j1)—

After section 55 (1) (j), insert:

(j1) permitting farm produce sellers to purchase farm produce which, immediately before the purchase, was in the possession of the sellers as farm produce agents and regulating any such purchases;

## (b) Section 55 (1) (m)—

Omit “and”.

## (c) Section 55 (1) (m1)—

After section 55 (1) (m), insert:

(m1) prescribing forms of agreements relating to the terms and conditions of sale of farm produce; and

---