

1993—No. 424

DRIED FRUITS ACT 1939—REGULATION

(Dried Fruits (General) Regulation 1993)

NEW SOUTH WALES



[Published in Gazette No. 94 of 27 August 1993]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Dried Fruits Act 1939, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY, M.P.,
Minister for Agriculture and Fisheries.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Dried Fruits (General) Regulation 1993.

Commencement

2. This Regulation commences on 1 September 1993.

Definitions

3. (1) In this Regulation:

“**approved**” means approved for the time being by the Board for the purposes of the provision in which the expression is used;

“**bin or sweatbox**” means a container that is used for the conveyance of dried fruits from a grower to a packing house, or for the conveyance of dried fruits within a packing house, and that is constructed of:

(a) wood; or

(b) wood strapped with metal; or

(c) such other material as may be approved by the Board;

“classer” means the holder of a classer’s licence;

“classer’s licence” means a licence authorising the licensee to classify dried fruits;

“dipped”, in relation to dried vine fruits, means immersed in or sprayed with oil emulsion;

“dried Doradillos” means dried Doradillos produced solely from Doradillo grapes;

“dried Shiraz” means dried Shiraz produced solely from Shiraz grapes;

“function” includes power, authority and duty; **“confer a function”** includes impose a duty; **“exercise a function”** includes perform a duty;

“muscatels” means dried fruits produced from grapes of the Waltham Cross or Gordo Blanco variety that have not been dipped;

“official sample”, in relation to dried vine fruits, means a sample of dried vine fruits that is supplied by the Board in connection with the classification of dried vine fruits;

“packer” means the person in whose name a packing house is registered;

“process”, in relation to dried fruits, means process, prepare, stem, grade, sort or pack the dried fruits at a registered packing house;

“season”, in relation to dried apples, dried Doradillos, dried Shiraz, dried Muscatels and dried Ohanez, means each year commencing on 1 January;

“Secretary” means the Secretary of the Board;

“seeded muscatels” means muscatels from which the seeds have been removed;

“the Act” means the Dried Fruits Act 1939;

“the Board’s requirements” means the requirements set out in the guidelines in force under clause 30;

“the Commonwealth requirements” means the requirements set out in Schedules 1, 2 and 3 to the Export Control (Dried Fruits) Orders, as amended, in force under the Export Control (Orders) regulations of the Commonwealth;

“unprocessed” means not treated at a registered packing house.

(2) In this Regulation a reference to a percentage by mass, volume or number of dried fruits is a reference to a percentage by mass, volume or number of the dried fruits when packaged.

Declared dried fruits

4. In accordance with section 4 (1) of the Act:
- (a) dried apples are declared to be dried fruits, and to be dried tree fruits, for the purposes of the Act; and
 - (b) dried Doradillos, dried Shiraz, dried Muscatels and dipped dried grapes produced from the Ohanez variety are declared to be dried fruits, and to be dried vine fruits, for the purposes of the Act.

**PART 2—DRYING AND TRANSPORTING DRIED FRUITS
AND USE OF PREMISES OTHER THAN PACKING MOUSES****Division 1—Drying grounds****Design and construction of drying grounds**

5. A person must not use premises as a drying ground unless:
- (a) the drying ground and its associated equipment are constructed, maintained and operated in a way that will enable fruit to be properly and hygienically dried and handled; and
 - (b) the drying ground and its associated equipment are so located as to minimise as much as possible the exposure of the fruit to disease or contamination; and
 - (c) the working area around each dehydrator comprises a concrete floor of a size, design and construction sufficient to protect fruit against disease and contamination in the process of dehydration.

Maximum penalty: 5 penalty units.

Use of drying grounds

6. A person must not use a drying ground for the purpose of drying fruit unless:
- (a) adequate measures are continuously taken, while the fruit is exposed on the drying ground:
 - (i) to minimise the depredations of insect pests by the use of lures and other means; and
 - (ii) to prepare the drying ground and its immediate surroundings in such a way as to protect the fruit against disease and contamination; and
 - (iii) to keep the drying ground and its associated equipment clean and free from disease and contaminating substances; and

- (b) all associated equipment is cleaned:
 - (i) immediately before the commencement of each season; and
 - (ii) at any other time it is necessary to do so in order to prevent the fruit becoming diseased or contaminated; and
 - (iii) immediately after the completion of each season; and
- (c) all waste matter (other than stalks, stems and the like that are free of dried fruits debris) is removed from the drying ground and its immediate vicinity; and
- (d) all waste matter removed from the drying ground is burned or otherwise disposed of.

Maximum penalty: 5 penalty units.

Division 2—Transport of dried fruits to packing houses

Containers for delivery of dried fruits

7. (1) A grower must not arrange delivery of dried tree fruits to a packing house otherwise than in bins or sweat boxes or in sound, clean, jute bags that have been sterilised or fumigated.

(2) A grower must not arrange delivery of dried vine fruits to a packing house otherwise than in bins or sweat boxes.

Maximum penalty: 5 penalty units.

Carriage of dried vine fruits to packing house

8. (1) A person must not carry dried vine fruits, or cause dried vine fruits to be carried, to a packing house unless they are adequately protected from dust and wet weather.

(2) A person who conveys unprocessed dried vine fruits to a packing house must do so by the shortest practicable route.

Maximum penalty: 5 penalty units.

Receipts for dried fruits to be issued by carrier

9. A person who receives dried fruits from a grower in order to carry them to a packing house:

- (a) must make out a receipt (an original and 2 copies) in the approved form; and
- (b) must give the original to the grower; and

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- (c) must give the first copy to the person to whom the dried fruits are delivered; and
- (d) must obtain that person's signature (as acknowledgment of the delivery) on the second copy;
- (e) must retain the second copy for 6 months from the date of the delivery; and
- (f) must, on demand made by an inspector at any time during that 6 month period, produce the second copy for inspection by the inspector.

Maximum penalty: 5 penalty units.

Division 3—Dried fruit stores**Stores associated with packing houses**

10. A person must not receive dried fruits in a store that is associated with a packing house unless the store is approved by the Board as a suitable place for the storage of dried fruits.

Maximum penalty: 5 penalty units.

Farm stores

11. (1) A person who stores dried fruits in a store that is on a farm (not being a store that is associated with a packing house):

- (a) must ensure that the dried fruits are stored under hygienic conditions in places that will afford them reasonable protection from disease, contamination and adverse weather conditions; and
- (b) must ensure that the dried fruits are stored in a manner that permits their convenient inspection by an inspector.

(2) If any dried fruits in such a store are found by an inspector to be stored in an unhygienic place, the person in charge of the store must, if the inspector by written order served on the person so directs, remove the affected fruits from the store.

(3) If any dried fruits in such a store are found by an inspector to be diseased or contaminated, the person in charge of the store must, if the inspector by written order served on the person so directs, segregate the dried fruits from other dried fruits stored on the farm.

Maximum penalty: 5 penalty units.

Other stores

12. (1) A person who stores dried fruits in a store that is not on a farm and is not used in association with a packing house:

- (a) must ensure that the dried fruits are stored under hygienic conditions in places that will afford them reasonable protection from disease, contamination and adverse weather conditions; and
- (b) must ensure that the dried fruits are stored in a manner that permits their convenient inspection by an inspector.

(2) If any dried fruits in such a store are found by an inspector to be stored in an unhygienic place or to be diseased or contaminated, the person in charge of the store must, if the inspector by written order served on the person so directs, remove the affected fruits from the store.

Maximum penalty: 5 penalty units.

PART 3—PACKING HOUSES**Division 1—Registration of packing houses****Registration of packing house (sec. 19)**

13. (1) For the purposes of section 19 (2) of the Act, an application for the registration of a packing house, or for renewal of registration, must be lodged at the office of the Board.

(2) An application for renewal of registration must be lodged during November of the year during which the registration is current.

(3) For the purposes of section 19 (2) of the Act:

- (a) Form 1 is the prescribed form for an application for registration; and
- (b) Form 2 is the prescribed form for an application for renewal of registration.

(4) or the purposes of section 19 (6) of the Act, Form 3 is the prescribed form for an application for transfer of registration.

(5) For the purposes of section 19 (8) of the Act:

- (a) \$200 is the prescribed fee to accompany an application for registration of a packing house; and
- (b) \$200 is the prescribed fee to accompany an application for renewal of registration; and
- (c) \$200 is the prescribed fee to accompany an application for transfer of registration.

Endorsement on registration certificate of transfer of registration (sec. 20)

14. For the purposes of section 20 (2) of the Act, Form 4 is the prescribed form of statement to be endorsed on a certificate of registration in the event that registration is transferred.

Basis of calculation of annual contributions by packers

15. (1) For the purpose of determining the contribution to be made by packers under section 15 of the Act, the Board, by order published in the Gazette, must, for each season, set a rate per tonne for dried vine fruits, for dried tree fruits (other than dried prunes) and for dried prunes.

(2) The contribution determined by the Board for a packer for any season is to be the sum of the amounts calculated by multiplying the weight of each kind of dried fruit received by the packer during that season by the rate per tonne fixed for that kind of dried fruit in accordance with this clause.

Payment of contribution by instalments

16. (1) For the purposes of section 15 (5) of the Act, a contribution under section 15 of the Act must be paid to the Board on or before 1 August of the year to which it relates.

(2) However, a contribution of more than \$20 may be paid to the Board in 4 quarterly instalments, payable on 1 August, 1 November, 1 February and 1 May, such that:

- (a) the first 3 instalments each consist of a whole number of dollars equivalent to at least one quarter of the total contribution payable; and
- (b) the fourth instalment consists of an amount equivalent to the unpaid balance of the total contribution payable.

(3) Failure to make due payment of any of the instalments renders the outstanding balance of the contribution immediately payable.

Division 2—Receipt of dried fruits**Receipts for dried tree fruits to be issued by packer**

17. (1) A packer who receives dried tree fruits at a packing house:
- (a) must make out a receipt (an original and a copy) in the approved form; and
 - (b) must give the original to the person from whom the dried tree fruits are received; and

- (c) must retain the copy for 2 years from the date of delivery; and
 - (d) must, on demand made by an inspector at any time during that 2 year period, produce the copy for inspection by the inspector.
- (2) Each receipt must include the following particulars:
- (a) the number and description of the containers in which the dried tree fruits are delivered;
 - (b) the name and classification of the dried tree fruits;
 - (c) the gross mass of the dried tree fruits and the containers;
 - (d) the net mass of the dried tree fruits;
 - (e) the date of the delivery.

Maximum penalty: 5 penalty units.

Receipts for dried vine fruits to be issued by packer

- 18. (1)** A packer who receives dried vine fruits at a packing house:
- (a) must make out a receipt (an original and a copy) in the approved form; and
 - (b) must give the original to the person from whom the dried vine fruits are received; and
 - (c) must retain the copy for 2 years from the date of delivery; and
 - (d) must, on demand made by an inspector at any time during that 2 year period, produce the copy for inspection by the inspector.
- (2) Each receipt must include the following particulars:
- (a) an identifying serial number;
 - (b) the number of bins or sweat boxes received and the gross and net mass of each class of dried vine fruits comprised in the delivery;
 - (c) the class and variety of dried vine fruits contained in each bin or sweat box and the treatment, if any, required by the dried vine fruits;
 - (d) the percentage deduction for wastage of dried vine fruits, if any, intended to be made in accordance with Part 4;
 - (e) the percentage deduction for excess moisture content in the dried vine fruits, if any, intended to be made in accordance with Part 4; and
 - (f) the date of receipt of the consignment.
- (3) The person who weighs the dried vine fruits must sign or initial the receipt at the time the dried vine fruits are weighed.

(4) The classer who classifies the dried vine fruits must sign or initial the receipt:

- (a) at the time the dried vine fruits are classified; and
- (b) at the time the wastage or moisture deduction is assessed.

(5) However, if a classer has an assistant who records the classifications and assessments made by the classer, the classer's signature or initials may be affixed within 3 hours after the classification or assessment is made.

Maximum penalty: 5 penalty units.

Receipt of dried fruits that require cleansing

19. On receipt in a packing house of any dried fruits that require treatment by water or oil preparation, or by any other process, the packer must cause the carton in which they are placed to be conspicuously marked as containing dried fruits that require such treatment.

Maximum penalty: 5 penalty units.

Division 3—Packaging of dried fruits

Dried fruits to be processed in accordance with Commonwealth requirements

20. A packer must ensure that dried fruits are processed in conformity with the Commonwealth requirements as to standards of quality.

Maximum penalty: 5 penalty units.

Outer cartons for dried tree fruits

21. A packer must pack dried tree fruits (whether or not enclosed in inner cartons):

- (a) in clean new fibreboard cartons that are strong enough to withstand the handling ordinarily incidental to the transport of dried tree fruits; or
- (b) in clean, new cartons constructed of well-seasoned softwood or hardwood that has been smoothly sawn or dressed; or
- (c) in any other type of outer carton approved by the Board.

Maximum penalty: 5 penalty units.

Outer cartons for dried tree fruits

22. (1) A packer must pack dried vine fruits (whether or not enclosed in inner cartons):

- (a) in clean new fibreboard cartons that are strong enough to withstand the handling ordinarily incidental to the transport of dried vine fruits; or
- (b) in metal drums or tin plate containers; or
- (c) in any other type of outer carton approved by the Board.

(2) The Board may exempt a packer from compliance with so much of this clause as requires outer cartons to be new:

- (a) if the packer applies in writing for the exemption and the Board is satisfied that the dried vine fruits will be repacked in new cartons before sale; and
- (b) if the cartons to be used comply in all other respects with the requirements of this clause.

Maximum penalty: 5 penalty units.

Bulk packaging of dried fruits

23. A packer must ensure that the following requirements are complied with:

- (a) cases and drums containing dried tree fruits that are not enclosed in an inner carton must be lined throughout with grease-proof paper or a polyethylene liner;
- (b) if dried tree fruits, lexias or seeded muscatels are to be packed in bulk in a fibreboard carton, they must be packed in a polyethylene bag in the carton;
- (c) if currants, sultanas or muscatels (other than seeded muscatels) are to be packed in bulk in a fibreboard carton, they must be so packed that there is a layer of grease-proof paper or polyethylene between them and the top and bottom of the carton.

Maximum penalty: 5 penalty units.

Certain mixtures prohibited

24. A packer must not allow a carton to contain a mixture consisting of any of the following:

- (a) different varieties of dried prunes;
- (b) dried prunes which have been moistened by the addition of water and dried prunes which have not been so moistened;
- (c) different varieties of dried peaches;
- (d) dried whole peaches and dried split peaches;
- (e) dried peeled peaches and dried unpeeled peaches;
- (f) different varieties of dried apricots;

- (g) dried whole apricots and dried split apricots;
 - (h) dried whole pitted apricots and dried whole unpitted apricots;
 - (i) dried apricots which have been moistened by the addition of water and dried apricots which have not been so moistened;
 - (j) dried pears from which the cores have been removed and dried pears from which the cores have not been removed;
 - (k) dried sulphured apricots and dried unsulphured apricots.
- Maximum penalty: 5 penalty units.

Division 4—Dispatch of dried fruits

Outer cartons to be marked clearly

25. (1) A packer of dried fruits must ensure that stencilling on the outer carton containing the dried fruits is clearly and cleanly done in true alignment with the sides and ends of the carton and without smudging.

(2) A packer must ensure that terms the same as, or similar to, “FANCY”, “FINE”, “EXTRA FINE”, “CHOICE”, “EXTRA CHOICE”, “SPECIAL”, “EXTRA SPECIAL”, “JUMBO”, “EXTRA LARGE”, “LARGE” or “MEDIUM” are not placed on a carton of dried fruits unless the dried fruits are correctly described by those terms, as provided by this Regulation.

Maximum penalty: 5 penalty units.

Removal or alteration of mark on carton

26. After dried fruits have been dispatched from a packing house, a person must not:

- (a) remove or alter a grade description or other mark appearing on the inner or outer carton of the dried fruits; or
- (b) interfere with such a grade description or other mark in such a way as to destroy its legibility,

without a further inspection by an inspector and the written authority of the Board.

Maximum penalty: 5 penalty units.

Marking of cartons of dried tree fruits

27. (1) A packer must ensure that both inner and outer cartons of dried fruits are legibly and durably marked or labelled by the packer, in letters at least 19mm high, with the following markings:

- (a) in the case of dried prunes—the name of the variety of the dried prunes and, if they have been moistened by the addition of water, the word “PROCESSED”;
- (b) in the case of dried clingstone peaches—the word “CLING”;
- (c) in the case of dried apricots, dried peaches, dried nectarines or dried pears which have been moistened by the addition of water—the letters “MP”;
- (d) in the case of dried pears from which the cores have been removed—the word “CORED”.

(2) A packer must also comply with any written direction of the Board as to the manner in which:

- (a) the name of a dried tree fruit; or
- (b) the grade description of a dried tree fruit; or
- (c) the net mass of a dried tree fruit; or
- (d) any other brands or marks required under this Regulation,

must appear on the cartons containing the dried tree fruits.

Maximum penalty: 5 penalty units.

Release of dried fruits from packing house

28. (1) A packer must not arrange or permit the removal of dried fruits from the packing house without a written authority to do so obtained in duplicate from the Board or from an inspector empowered by the Board to give such an authority.

(2) A person must not remove dried fruits from a packing house without first obtaining the duplicate copy of the authority.

(3) If required to do so by an inspector, a person who is transporting dried fruits from a packing house or who is in possession of dried fruits transported by the person from a packing house:

- (a) must produce for inspection the duplicate copy of the authority; and
- (b) must state his or her name and address.

(4) A person must not give a false name or address in response to such a requirement.

(5) In the event that a person has a reasonable excuse for failing to comply with the requirement to produce the duplicate copy of the authority, the person must instead produce the duplicate copy to an inspector or to the Secretary within 7 days after the failure.

Maximum penalty: 5 penalty units.

Division 5—Records**Keeping of records of packing house****29. (1)** A packer:

- (a) must keep complete records of dried fruits received in, and dispatched from, the packing house; and
- (b) must retain the records for 2 years from the date on which they are made; and
- (c) must, on demand made by the Board or an inspector during that 2 year period, produce the records for inspection by the Board or inspector.

(2) The record of dried fruits received must include:

- (a) the net mass of the dried fruits received; and
- (b) their classification according to the Board's requirements.

(3) The record of dried fruits dispatched must include:

- (a) the net mass of the dried fruits dispatched; and
- (b) their standards of quality according to the Commonwealth requirements.

Maximum penalty: 5 penalty units.

PART 4—ADDITIONAL PROVISIONS FOR DRIED VINE FRUITS**Division 1—General****The Board's requirements**

30. For the purposes of this Regulation, the Board may, by order published in the Gazette, establish guidelines:

- (a) for the procedures to be adopted for taking samples of dried vine fruits; and
- (b) for the criteria (by reference to colour and moisture content) by which dried vine fruits are to be classified; and
- (c) for the criteria by which wastage and moisture deductions for dried vine fruits are to be assessed.

Dried vine fruits to be delivered to classing room

31. A packer must ensure that dried vine fruits are not accepted at the packing house otherwise than:

- (a) at a classing room for the packing house; and

(b) in the presence of a licensed classer.

Maximum penalty: 5 penalty units.

Design, construction and equipment of classing room

32. (1) A classing room must be designed, constructed and equipped in the approved manner for the purpose of enabling dried vine fruits to be classified in accordance with the Board's requirements.

(2) The equipment to be provided must include at least one moisture meter of an approved type for use in assessing moisture deductions for the dried vine fruits.

Maximum penalty: 5 penalty units.

Unclassified fruit not allowed beyond classing room

33. (1) A packer must ensure that dried vine fruits (other than samples) are not taken from a classing room to any other part of the packing house unless:

(a) the dried vine fruits have been classified; and

(b) the relevant moisture and wastage deductions have been assessed, in accordance with this Part.

(2) This clause does not prevent a packer from allowing dried vine fruits to be taken from a classing room with the written permission of an inspector so long as they are kept apart from classified fruits until they are classified.

Maximum penalty: 5 penalty units.

Dried vine fruits not to be processed unless classified

34. A packer must ensure that dried vine fruits are not processed in the packing house unless they have been classified in accordance with this Part.

Maximum penalty: 5 penalty units.

Division 2—Classification

Official samples

35. (1) A packer must keep in each classing room, in the carton in which it was supplied, an official sample of each class of dried vine fruits processed in the packing house.

(2) The packer must, at the request of an inspector, permit the inspector to inspect the official sample.

Maximum penalty: 5 penalty units.

Samples to be taken

36. (1) At the door of the packing house at which dried vine fruits are received, the packer must take a primary sample from each bin or sweat box of dried vine fruits delivered by a grower.

(2) The packer must thoroughly mix the primary samples of the same class and type and must do so in such a way that the final sample weighs not less than 1 kilogram.

(3) The packer must ensure that the primary samples are taken, and the final sample created, in accordance with the Board's requirements.

Maximum penalty: 5 penalty units.

Manner of classification

37. A packer must ensure that dried vine fruits are classified in accordance with the Board's requirements.

Maximum penalty: 5 penalty units.

Unlicensed persons not to classify dried vine fruits

38. A packer must not allow any person:

- (a) to classify dried vine fruits; or
- (b) to assess wastage or moisture deductions for dried vine fruits,

unless the person is a licensed classer.

Maximum penalty: 5 penalty units.

Classers' licences

39. (1) The Board may issue a classer's licence to any person who, in the opinion of the Board:

- (a) has colour sense; and
- (b) knows the procedures for classifying dried fruits and making assessments of moisture and wastage deductions.

(2) A classer's licence is to be in the approved form.

(3) A classer's licence remains in force until 31 December of the year in which was granted or last renewed or, if an application for its renewal is made before 31 December, until the date on which the application is finally determined.

Samples to be compared with official samples

40. A classer must classify dried fruits:

- (a) by means of an approved inspection light; and
- (b) in accordance with the Board's requirements; and
- (c) by comparing the final sample for the dried fruits with the official sample for the dried fruits.

Maximum penalty: 5 penalty units.

Division 3—Reclassification and reassessment

Reclassification and reassessment by inspector

41. (1) An owner or packer of dried vine fruits who is dissatisfied with:

- (a) a classification of the dried vine fruits; or
- (b) an assessment of moisture or wastage deduction for the dried vine fruits,

may apply to an inspector for a reclassification or reassessment.

(2) The application must be made within 5 days after the original classification or assessment was made.

(3) An inspector who reclassifies any dried vine fruits or re-assesses any moisture or wastage deduction:

- (a) must make out and retain for at least 6 months a certificate in the approved form; and
- (b) must post one copy of the certificate in a prepaid letter to the grower of the dried vine fruits; and
- (c) must give one copy to the packer; and
- (d) must send one copy to the Secretary.

Final reclassification or reassessment

42. (1) An owner or packer of dried vine fruits who is dissatisfied with a classification or assessment made by an inspector may apply to the Board for a reclassification or reassessment.

(2) The application must be made within 5 days after the previous classification or assessment was made.

(3) The decision of the Board under this clause is final.

Division 4—General

Record card to be kept on each bin or sweat box

43. (1) On receipt by a packer of a load of dried vine fruits from a grower, the packer must place a card on the top bin or sweat box for each class of the fruits within the load.

(2) The card must record:

- (a) the number of the receipt issued by the packer to the grower; and
- (b) the number of bins or sweat boxes of dried vine fruits to which the receipt relates; and
- (c) a description of the class of the dried vine fruits; and
- (d) the moisture and wastage assessment for the dried vine fruits.

(3) The packer must mark the top and bottom bins or sweat boxes with chalk indicating the number of the receipt issued in relation to the dried vine fruits.

Maximum penalty: 5 penalty units.

Classes of dried vine fruits to be kept apart

44. (1) A packer must keep all dried vine fruits received into the packing house in distinct and separate lots according to their class and moisture and wastage assessment.

(2) This clause does not apply:

- (a) if there is insufficient storage space in the packing house; or
- (b) if an inspector gives the packer written permission to place 2 or more lots of dried vine fruits together.

Maximum penalty: 5 penalty units.

Action to be taken if official sample not received before dried vine fruits

45. (1) If dried vine fruits are received at a packing house before an official sample has been received by the packing house, the packer:

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- (a) must ensure that the receipt for the grower is endorsed “SUBJECT TO RECLASSIFICATION” or “TENTATIVE GRADE”; and
- (b) must ensure that a notice confirming or varying the endorsed receipt is sent to the grower as soon as possible after the receipt of the official sample.

(2) If a sample is taken before an official sample is received at a packing house, the packer must ensure that the sample is reviewed by an inspector as soon as possible after the official sample is received.

Maximum penalty: 5 penalty units.

Classification etc. not to be altered or varied by packer

46. A packer must not alter a classification or grade description, or make a deduction affecting the return to a grower, otherwise than in accordance with a reclassification or reassessment carried out in accordance with Division 3.

Maximum penalty: 5 penalty units.

PART 5—ADDITIONAL PROVISIONS FOR DRIED PRUNES**Fancy quality dried prunes**

47. Dried prunes are of fancy quality:

- (a) if they consist of only one variety of sound fruit; and
- (b) if they are of excellent texture, full-bodied and of uniformly dark colour.

Choice quality dried prunes

48. Dried prunes are of choice quality:

- (a) if they consist of only one variety of sound fruit; and
- (b) if they are of good texture and of uniformly dark colour.

Manufacturing quality dried prunes

49. (1) Dried prunes are of manufacturing quality if they are not of fancy quality or choice quality.

(2) A packer must not sell manufacturing quality dried prunes by retail.

Maximum penalty: 5 penalty units.

Class descriptions for dried prunes

50. Unless they are of manufacturing quality, dried prunes are to be classified in accordance with the following descriptions:

- (a) “JUMBO”, if there are fewer than 30 prunes per 454 grams; and
- (b) “EXTRA LARGE”, if there are 30–45 prunes per 454 grams; and
- (c) “LARGE”, if there are 46–70 prunes per 454 grams; and
- (d) “MEDIUM”, if there are 71–90 prunes per 454 grams; and
- (e) “SMALL”, if there are more than 90 prunes per 454 grams.

Basic requirements for all dried prunes

51. (1) Dried prunes delivered to a packing house may be rejected by the packer:

- (a) if they do not consist of sound and fleshy full-bodied fruit of a uniformly good texture and colour; or
- (b) if they are a mixture of both dried prunes that have been moistened by the addition of water and those that have not; or
- (c) if the moisture content on delivery exceeds 19 per cent; or
- (d) if they are not separately sorted by varieties; or
- (e) if they are not separately sorted into their relevant classes or, if in syrup, there are more than 100 prunes per 454 grams.

(2) Prunes delivered to a packing house may contain sodium sorbate or potassium sorbate.

Labelling

52. (1) Dried prunes must not be sold by retail unless the label on the inner carton in which they are packed includes this following details:

- (a) the word “PRUNES”;
- (b) the appropriate classification;
- (c) the minimum number of prunes in the carton;
- (d) the word “PITTED”, if the pits have been removed;
- (e) the date of packing in the carton;
- (f) the country of origin;
- (g) the name and address of the packer or repacker;
- (h) the net contents by mass, volume or count;
- (i) a description of all additives in the carton.

(2) Imported dried fruit must not be sold if the label on the carton includes the words “PRODUCT OF AUSTRALIA” or other words stating or implying that the dried fruit in the carton was grown in Australia.

Maximum penalty: 5 penalty units.

Moisture content

53. (1) A packer must not deliver to a retailer a carton of dried prunes if the moisture content of the dried prunes exceeds 22 per cent unless:

- (a) the words “DRY PACK” appear on the carton in a readable form; or
- (b) the carton is hermetically sealed and treated with sodium sorbate or potassium sorbate.

(2) The moisture content of dried prunes is to be determined by means of a moisture meter of an approved type.

Maximum penalty: 5 penalty units.

PART 6—POWERS OF INSPECTION

Powers of inspector

54. (1) An inspector may enter and search:

- (a) the premises of any packing house, dehydrator, store, warehouse, bond, shop or bakery; or
- (b) the premises of a farm, drying ground or drying rack; or
- (c) any railway premises; or
- (d) any vehicle or vessel,

if the inspector has reasonable grounds for suspecting that there are dried fruits on those premises or on that vehicle or vessel.

(2) Except in emergencies, the power of entry may only be exercised during daylight hours.

(3) While searching the premises, vehicle or vessel, the inspector:

- (a) may open any package which the inspector suspects to contain dried fruits or require the person or persons for the time being in charge of the premises, vehicle or vessel to open any such package; and
- (b) may take samples of dried fruits; and
- (c) may inspect books, accounts, documents and records and take copies of them, or of entries in them, in so far as they relate to dried fruits; and

(d) may do anything necessary to ascertain whether the requirements of the Act or of this Regulation are being complied with.

(4) For the purpose of gaining entry to a vehicle or vessel, an inspector may cause the vehicle or vessel to stop.

(5) The powers conferred on an inspector by this clause may be exercised only if the inspector:

- (a) is in possession of a certificate of authority issued by the Board and produces the certificate if asked to do so by a person apparently in occupation of the relevant premises or in charge of the vehicle or vessel; and
- (b) before entering any premises, gives reasonable notice to the occupier of the premises of intention to exercise the powers, unless the giving of notice would defeat the purpose for which it is intended to exercise the powers.

(6) The Minister must pay compensation to the owner of the premises, vehicle or vessel for any loss or damage arising from the exercise of any power under this clause, but is not so liable to the extent to which the loss or damage arises from work done for the purposes of an inspection which reveals that there has been a contravention by the owner of the Act or this Regulation.

(7) A power of entry conferred by this clause is not exercisable in relation to such part of a building as is being used for residential purposes except with the permission of the occupier of that part of those premises.

Removal of bad fruits from packing house

55. (1) An inspector may order the person in charge of a packing house to segregate in, or remove from, the packing house:

- (a) any dried fruits brought to the packing house, if the inspector considers that their quality or condition is such as to make them unfit to be received into the packing house; or
- (b) any dried fruits in a packing house, if the inspector considers that they are unfit for processing without special treatment or that, because of their condition, they may adversely affect other dried fruits in the packing house.

(2) A person given an order under this clause must comply with the order within a reasonable time.

Maximum penalty: 5 penalty units.

Power to retain dried fruits

56. An inspector may take possession of any dried fruits and retain them at a reasonable place and for a reasonable time, but only if:

- (a) the inspector has reasonable grounds for believing that the dried fruits are the subject of a contravention of the Act or this Regulation; and
- (b) the inspector gives notice of the possession and retention to the person who appears to the inspector to have been in charge of the dried fruits when they were taken into possession; and
- (c) the notice is given at, or within a reasonable period after, the time when possession is taken of the dried fruits.

Inspector not to be resisted

57. (1) A person must not:

- (a) resist, interfere with, hinder or obstruct an inspector in the exercise or discharge of any function under the Act or this Regulation; or
- (b) refuse to give information, or knowingly give false information, in answer to any reasonable inquiry made by an inspector for the purposes of the Act or this Regulation; or
- (c) knowingly mislead an inspector so as to affect the performance of the inspector's duties; or
- (d) disobey or fail to comply with any reasonable direction given by an inspector under the Act or this Regulation.

(2) A person must not refuse to give reasonable information in relation to cheques, receipts, dockets, promissory notes or other similar documents, if the information is asked for by an inspector to enable the inspector to trace or verify sales or purchases of dried fruits or other dealings in dried fruits.

Maximum penalty: 5 penalty units

PART 9—THE BOARD**Notice of meeting**

58. A meeting of the Board is called if the Secretary causes a notice of the time, date and place of the meeting to be delivered, within a reasonable time before the date of the meeting, to each member who would be entitled to vote at the meeting.

Lack of quorum

59. If a quorum for a meeting of the Board is not present within half an hour after the time appointed for the meeting, the meeting lapses.

Record of proceedings of meetings

60. (1) The Secretary is to keep proper minutes of all resolutions, business and proceedings made or transacted at each meeting of the Board.

(2) The minutes of a meeting of the Board must be submitted for confirmation at the next meeting and, when confirmed, are to be signed by the member presiding at the meeting at the time of their confirmation.

Payment of allowances

61. For the purposes of section 12 of the Act:

- (a) the chairperson of the Board is entitled to an allowance of \$8,000 per year; and
- (b) the other members of the Board are entitled to allowances of \$4,000 per year.

PART 4—MISCELLANEOUS**False or misleading statements**

62. A person must not, in or in connection with an application under the Act, make any statement that the person knows to be false or misleading in a material particular.

Maximum penalty: 5 penalty units.

Drawback fruit

63. (1) A packer must not, in one packing season, issue to a grower drawback fruit comprising more than:

- (a) 30 kilograms of each variety of dried fruits (other than sultanas) supplied to the packing house by the grower during that season; or
- (b) 35 kilograms of sultanas, unless special permission in writing is first obtained from the Board on application made in the approved form.

(2) Cartons of drawback fruit must be branded by the packer with the letter “D” in bold black type:

- (a) superimposed over the name and address of the packer or the registered brand (that is, the brand registered under the Trade Marks Act 1955 of the Commonwealth) of the packer; and
- (b) at least 125 mm high and 100 mm wide.

(3) In addition to this clause, the other provisions of this Regulation applicable to the packing and branding of dried fruits apply to the packing of drawback fruit and the branding of the packages in which it is contained.

Maximum penalty: 5 penalty units.

Permission required for certain sales

64. A person must not, without the prior permission of the Board, sell drawback fruit or obtain the same variety of drawback fruit from more than one packing house.

Maximum penalty: 5 penalty units.

Name and grade description of dried fruits to be indicated

65. A person who displays or exposes for sale any dried fruits must, on any label, ticket, notice or sign relating to their quality or description, clearly indicate in words (without abbreviation) the name and grade description of the fruits as prescribed by the Commonwealth requirements.

Maximum penalty: 5 penalty units.

Lexias may be described as raisins

66. If this Regulation requires the word “LEXIAS” to be branded or printed on a package or to appear on a ticket or label, the requirement may be satisfied by the use of the word “RAISINS” instead.

Particulars to be given in return of dried fruits

67. For the purposes of section 32 (1) (a) of the Act, the particulars that may be required of a person who is or has been the owner of dried fruits or who has or has had dried fruits in his or her disposal or under his or her control include the following:

- (a) the quantity of each variety of dried fruits produced by the person, the season of production and the land on which the dried fruits were produced;

- (b) the quantity of each variety of dried fruits purchased or received from other persons, the names and addresses of the other persons, the quantity purchased or received in each case, and the date of each purchase or receipt;
- (c) the name and address of each person to whom dried fruits have been sold or delivered, the quantity of each variety sold or delivered to each such person and the date of each sale or delivery;
- (d) the quantity of each variety of dried fruits purchased or received and not sold or delivered to other persons and the address at which the unsold or undelivered fruit is stored.

Repeal

68. The Dried Fruits Regulations are repealed.

Transitional

69. (1) If anything done under the Dried Fruits Regulations still has effect immediately before this Regulation commences, and if that thing could have been done under a corresponding provision of this Regulation had it been in force when that thing was done, the thing continues to have effect as if it had been done under the corresponding provision of this Regulation.

(2) The requirements of Schedule 2 to the Dried Fruits Regulations with respect to dried vine fruits, to the extent to which they establish guidelines:

- (a) for the procedures to be adopted for taking samples of dried vine fruits; and
- (b) for the criteria (by reference to colour and moisture content) by which dried vine fruits are to be classified; and
- (c) for the criteria by which wastage and moisture deductions for dried vine fruits are to be assessed,

are taken to be the Board's requirements for the purposes of this Regulation and may be amended or repealed accordingly under clause 30 of this Regulation.

SCHEDULE 1—FORMS

Form 1

(Cl. 13)

APPLICATION FOR REGISTRATION OF PACKING HOUSE

(DRIED FRUITS ACT 1939)

To the Secretary
Dried Fruits Board.

.....
(Name of owner)

of
(Full address of owner)

being the owner of a packing house at
.....
(Full address of packing house)

applies for registration of the packing house until 31 December next.

Questions	Answers
1. What are the dimensions of the packing house?	Length m Width m Height m
2. Of what materials are the walls and roof of the packing house constructed?
3. Of what materials is the floor of the packing house constructed?
4. Is the packing house ceilinged or lined?
5. Can the dust in the air of the packing house be controlled while the packing house is in use?
6. If so, by what means?
7. How is it proposed to destroy insect pests in and about the packing house?
8. Can the packing house be effectively fumigated?
9. Is a store for dried fruits used in connection with the packing house?

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- 10. If so, can the store be effectively fumigated?
- 11. What is the capacity of the store?
- 12. If the packing house, or a store referred to in item 9, is not to be used as a packing house or as a store for dried fruits, for what will it be used?
- 13. What varieties of dried fruits are proposed to be processed at the packing house?
- 14. What are the estimated quantities (in tonnes) of each variety of dried fruits produced in New South Wales which it is anticipated will be packed annually at the packing house?
 - Sultanas
 - Lexias
 - Ohanez
 - Apricots
 - Nectarines
 - Peaches
 - Pears
 - Prunes

The prescribed application fee is enclosed.

The business name under which it is proposed to conduct the packing house is

.....
Signed/sealed at this day of 19.....

Form 2

(Cl. 13)

APPLICATION FOR RENEWAL OF REGISTRATION OF PACKING HOUSE

(DRIED FRUITS ACT 1939)

The Secretary
Dried Fruits Board.

.....
(Name of applicant)

of
(Address of applicant)

applies for renewal of registration until 31 December 19 of the packing house operated under the business name of

..... at

..... to process

.....
(State the varieties of dried fruits)

The prescribed application fee is enclosed.

Signed/sealed by

on
(Date)

.....
(Signature (or seal if a corporation))

Form 3

(Cl. 13)

APPLICATION FOR TRANSFER OF REGISTRATION OF PACKING HOUSE

(DRIED FRUITS ACT 1939)

The Secretary
Dried Fruits Board.

.....
(Name of applicant transferor)

of
(Address of applicant transferor)

applies for the transfer to
.....
(Name and address of proposed transferee)

of registration of the packing house operated under the business name of
..... at
and registered under the Dried Fruits Act 1939 to process
.....
(State the varieties of dried fruits)

If the transfer is approved, the packing house will be operated under the business name of

The prescribed application fee is enclosed.

Signed/sealed by

on
(Date)

.....
(Signature (or seal if a corporation))

Form 4

(Cl. 14)

STATEMENT OF TRANSFER

(DRIED FRUITS ACT 1939)

This certificate of registration, for the packing house situated at
.....,
has been transferred from
of
to
of
to be conducted under the business name of

Dated:

.....
Minister for Agriculture and Fisheries

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SCHEDULE 1—FORMS

EXPLANATORY NOTE

The object of this Regulation is to repeal the Dried Fruits Regulations and to remake the provisions of those Regulations, other than the provisions relating to elections. The provisions relating to elections are the subject of the Dried Fruits (Elections) Regulation 1993. The new Regulation makes provision with respect to the following matters:

- (a) the drying and transporting of dried fruits and the use of premises (other than packing houses) for the storage of dried fruits (Part 2);
- (b) the registration and conduct of packing houses used for the classification, processing and packaging of dried fruits (Part 3);
- (c) additional provisions with respect to the classification, processing and packaging of dried vine fruits (Part 4);
- (d) additional provisions with respect to the classification, processing and packaging of dried prunes (Part 5);
- (e) the powers of inspection and entry into premises that may be exercised by inspectors (Part 6);
- (f) matters relating to the procedure of the Dried Fruits Board (Part 7);
- (g) other provisions of a minor, consequential or ancillary nature (Parts 1 and 8).

This Regulation is made under the Dried Fruits Act 1939, including section 39 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
