

Farm Produce Act 1983 No 30

[1983-30]



New South Wales

Status Information

Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2006](#)
- **Note**
The Act is to be repealed by sec 4 of the [Farm Produce \(Repeal\) Act 1996 No 134](#) on a day or days to be proclaimed.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Farm Produce Act 1983 No 30



New South Wales

An Act to repeal the *Farm Produce Agents Act 1926* and to replace that Act with provisions for the registration and regulation of farm produce agents and farm produce merchants.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Farm Produce Act 1983*.

2 Commencement

- (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 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 licences to have effect on or after (but not before) the day appointed and notified under subsection (2):
 - (a) applications may be made for the grant of a licence,
 - (b) the registrar appointed under the *Farm Produce Agents Act 1926* may exercise the functions under Divisions 2 and 3 of Part 3 of the registrar appointed under this Act, and
 - (c) this Act shall apply to and in respect of any applications so made and any action taken by the registrar appointed under the *Farm Produce Agents Act 1926* in the exercise of those functions,

as if the whole of this Act commenced on the date of assent to this Act but any licence granted before the day appointed and notified under subsection (2) shall not take effect until the day so appointed and notified.

3 Limited application of Act

This Act ceases to have effect at the expiration of 30 June 1997, except to the extent that it applies to and in respect of farm produce sold by a producer to a farm produce

merchant, or sold by a farm produce agent on behalf of a producer, before or on that date and for which payment became or becomes due no later than on 31 July 1997.

4 Definitions

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

farm produce means vegetables, potatoes and other edible roots and tubers, fruit, honey and such other articles or classes of articles as the Minister may, by order published in the Gazette, declare to be farm produce.

farm produce agent means a person who sells farm produce as agent, broker or factor for another person:

- (a) in the course of carrying on a business on his or her own behalf, or
- (b) in the course of controlling or managing the business of a person who is not resident within New South Wales,

whether or not the business is carried on in connection with any other business but does not include any person or class of persons prescribed for the purposes of this definition.

farm produce merchant means a person who purchases farm produce from a producer for the purpose of resale:

- (a) in the course of carrying on a business on the person's own behalf, or
- (b) in the course of controlling or managing the business of a person who is not resident within New South Wales,

whether or not the business is carried on in connection with any other business but does not include any person who purchases farm produce for resale exclusively by retail or any other person or class of persons prescribed for the purposes of this definition.

farm produce seller means a person who is a farm produce agent or a farm produce merchant, or both.

functions includes powers, authorities and duties.

indemnity includes bond.

inspector means a person authorised by the registrar to be an inspector for the purposes of this Act.

licence means a licence granted under this Act.

licence period means one of the periods prescribed by the regulations for the purposes of this definition as the periods for which licences are in force.

licensee means the holder of a licence which is in force.

producer includes a rural society registered under the *Co-operation Act 1923*.

registered office, in relation to a farm produce seller, means the registered office of the farm produce seller as referred to in section 35.

registrar means the person appointed as the registrar as referred to in section 6 (2).

regulations means regulations made under this Act.

- (2) A reference in this Act to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (3) A reference in this Act to a sale made by a person as a farm produce agent is a reference to a sale or purported sale of farm produce on behalf of another person, whether or not the purchaser or purported purchaser had or has any interest in the farm produce.

5 Exemption from operation of Act

- (1) The Minister may, by order published in the Gazette, direct that the whole or any specified provisions of this Act:
 - (a) shall not apply to or in respect of any person or class of persons, or any act, matter or thing or class of acts, matters or things, specified in the order, or
 - (b) shall not so apply in such circumstances as may be so specified.
- (2) An order published under subsection (1) shall take effect according to its tenor on and from the day of publication or, where a later day is specified in the order, from the day so specified.
- (3) Where a licensee has died, the registrar may, by notice in writing addressed to such person or persons as the registrar thinks fit, direct, either unconditionally or subject to such conditions as the registrar may specify in the notice, that for such period (not exceeding 6 months) after the death of the licensee as may be specified in the notice:
 - (a) section 8 shall not apply to or in respect of the person or persons, and
 - (b) the provisions of this Act (other than section 8) shall apply to and in respect of the person or persons as if he, she or they were the licensee,

in relation to the carrying on by the person or persons of a business as a farm produce seller or farm produce sellers, being a business which, immediately before his death, was carried on by the deceased licensee and such a direction shall take effect

according to its tenor.

Part 2 Administration

6 Registrar and other staff

- (1) Such staff as may be necessary for the purpose of carrying out the provisions of this Act shall be employed under the *Public Service Act 1979*.
- (2) A registrar and a deputy registrar shall be appointed by the Minister from among the members of staff employed as referred to in subsection (1).

7 Delegation

- (1) The registrar may, by instrument in writing, delegate to the deputy registrar and to any other member of the staff employed as referred to in section 6 (1) the exercise of such of the functions (other than this power of delegation) conferred or imposed on the registrar by or under this Act as may be specified in the instrument of delegation and may, by instrument in writing, revoke wholly or in part 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 to whom the exercise thereof has been delegated.
- (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 and circumstance, as may be specified in the instrument of delegation.
- (4) Notwithstanding any delegation under this section, the registrar 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 registrar and shall be deemed to have been done or suffered by the registrar.
- (6) An instrument purporting to be signed by a delegate in his or her capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the registrar and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate.

Part 3 Licensing of farm produce sellers

Division 1 Requirement to be licensed

8 Unlicensed person acting as farm produce seller

- (1) A person shall not:
 - (a) act as, or
 - (b) advertise or notify that the person acts as,
a farm produce seller unless the person is a licensee.
- (2) A person acts as a farm produce seller if the person does so either by himself or herself, as a member of a partnership or by the person's servant or agent.
- (3) A person shall not act as a farm produce seller in partnership with a person who is not a licensee.
- (4) The fact that a member of a partnership formed for the purpose of acting as farm produce sellers is not a licensee is sufficient ground upon which to dissolve the partnership.

Maximum penalty: 50 penalty units.

Division 2 Grant of licences

9 Licences

- (1) A person who:
 - (a) in the case of a person other than a corporation, is:
 - (i) of or above the age of 18 years, and
 - (ii) not disqualified from holding a licence, or
 - (b) in the case of a corporation, is not disqualified from holding a licence,may, subject to subsection (2), make an application to the registrar for the grant of a licence.
- (2) An application under subsection (1) may not be made by a licensee earlier than 60 days before the expiration of the current licence period.
- (3) An application by a person under subsection (1) shall be:
 - (a) in or to the effect of the prescribed form, and
 - (b) accompanied by:

- (i) the prescribed fee, and
 - (ii) in the case of an application by a person who is not a licensee, a notification specifying the place or places which will be the registered office of the applicant if the licence applied for is granted.
- (4) On receipt of an application under subsection (1):
- (a) where the registrar is satisfied that:
 - (i) the applicant is entitled under subsection (1) to make the application,
 - (ii) the registrar has been furnished with an indemnity in a form, and from a person, approved by the registrar which is, in accordance with section 11, adequate security in respect of the applicant,
 - (iii) the application complies with the requirements of subsection (3), and
 - (iv) in the case of an application by a person who is not a licensee, the proposed registered office will provide adequate protection from risk of damage or loss of the books, documents and other records required to be kept by or under this Act,the registrar shall grant a licence to the applicant, and
 - (b) where the registrar is not so satisfied, the registrar shall:
 - (i) by notice in writing served on the applicant for the licence, inform the applicant that the registrar proposes to refuse to grant the licence and of the registrar's reasons for doing so, and
 - (ii) allow the applicant a period of 14 days to show cause why the licence should be granted.
- (5) Where, within the period allowed under subsection (4) (b) (ii), an applicant has not shown sufficient cause why a licence should be granted to the applicant, the registrar may refuse to grant a licence to the applicant.

10 Disqualification

- (1) A person is disqualified from holding a licence:
- (a) during the period of 5 years immediately after the person has been, in or beyond the Commonwealth, convicted of an offence under Chapter 1 of Part 4, or under Part 5, of the *Crimes Act 1900*, or of any similar offence against the law of this or any other State, territory or country,
 - (b) (Repealed)

- (c) during the period of 5 years immediately after 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),
 - (d) (Repealed)
 - (e) during the period in which the person is, in or beyond the Commonwealth, an undischarged bankrupt,
 - (f) during the period of 5 years immediately after the person has been, in or beyond the Commonwealth, discharged from bankruptcy,
 - (g) during the period of 5 years immediately after the person has made, in or beyond the Commonwealth, either individually or as a partner, an assignment for the benefit of creditors under which the person's unsecured debts have not been paid at the rate of at least 70 cents in the dollar,
 - (h) during the period of 5 years immediately after payment of the person's unsecured debts has been completed under a composition or deed of arrangement made or entered into by the person, in or beyond the Commonwealth, either individually or as a partner, and under which, in either case, the person's unsecured debts have not been paid at the rate of at least 70 cents in the dollar, or
 - (i) (Repealed)
 - (j) during the period of 5 years immediately after the person's disqualification under section 17.
- (2) A corporation is disqualified from holding a licence if a director of the corporation is disqualified from holding a licence.
- (3) A person is disqualified from holding a licence during the period of 5 years immediately after the cancellation of the licence of a corporation of which the person is a director.
- (4) A person who is disqualified from holding a licence by reason only of subsection (3) may apply to the registrar to have the disqualification lifted.
- (5) On receipt of an application under subsection (4) from a person who is disqualified from holding a licence by reason of the cancellation of the licence of a corporation of which the person is a director, the registrar may lift the disqualification arising by virtue of that cancellation if the registrar is satisfied that:
- (a) the action or conduct by reason of which the cancellation occurred was due to a cause or causes beyond the person's control, and
 - (b) the person took all reasonable precautions and exercised all due diligence to prevent that action or conduct.

- (6) Where the disqualification of a person arising by virtue of the cancellation of a licence is lifted as referred to in subsection (5), the person shall be deemed not to be disqualified by reason of that cancellation.

10A Disqualification by registrar

- (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 or 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:
- (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.

11 Indemnities

- (1) For any purposes of this Act, an indemnity is adequate security in respect of a person only if the registrar is satisfied that the indemnity provides adequate security, in the aggregate, of the prescribed amount, in respect of all or any losses by persons for whom the person acts or has acted as farm produce agent or with whom the person deals or has dealt with as farm produce merchant and arising from default by the person acting as farm produce seller in contravention of this Act or the regulations during the period to which the indemnity relates.
- (2) In subsection (1), the **prescribed amount** means:
 - (a) except as provided by paragraph (b)—\$50,000, or
 - (b) where another amount has been prescribed for the purposes of this section—that other amount.
- (3) The registrar may be satisfied that an indemnity provides the security required by subsection (1):
 - (a) even if the security is provided under a master policy of indemnity covering a number of persons, and
 - (b) even if the total security to be provided under such a master policy is limited to an amount that is less than the aggregate of each individual security provided to the persons covered.

12 Duration of licence

- (1) A licence granted to a person who is not a licensee takes effect from the date on which it is granted and, unless sooner cancelled, remains in force:
 - (a) where it takes effect from the commencement of a licence period—for the whole of that licence period, or
 - (b) where it takes effect during a licence period—for the remainder of that licence period.
- (2) A licence granted to a licensee takes effect from the commencement of the next licence period immediately following the date on which it is granted and remains in force for the whole of that next licence period.
- (3) Notwithstanding anything contained in subsections (1) and (2), a licence which is suspended under this Act is not in force while it is suspended.

Division 3 Suspension or cancellation of licences

13 Removal of disqualified person from share register

- (1) The registrar may, by notice in writing, require a corporation which is a licensee to have the name of a person who:
 - (a) holds shares in the corporation and is disqualified from holding a licence, or
 - (b) holds shares in the corporation as trustee for a person who is disqualified from holding a licence,removed from the register of members of the corporation within such period (being not less than 3 months) after service of the notice as is specified in the notice.
- (2) Where a corporation which has been served with a notice under subsection (1) requiring it to have the name of a person removed from its register of members does not comply with the requirement within the period specified in the notice or within such further period as the registrar may have allowed, the licence of the corporation shall be suspended, and the corporation shall be disqualified from holding a licence, until the name of the person has been removed from the register of members.
- (3) A corporation may, by notice in writing, require any holder of its shares in respect of whom a notice has been received from the registrar under subsection (1) to dispose of and entirely divest the holder of any interest, legal or equitable, in those shares, either as sole or joint owner, within such period (being not less than 2 months) after service of the notice on the shareholder as is specified in the notice.
- (4) Where a shareholder on whom a notice by a corporation is served under subsection (3) does not comply with the notice within the period specified in the notice or within such further period as the registrar may have allowed, the corporation may sell the shares the subject of the notice on behalf of the shareholder and make all cancellations and entries in any appropriate register necessary to give effect to the sale.
- (5) Any money received by a corporation on a sale of shares under subsection (4) shall, after payment of the expenses of sale, be paid or credited to the person whose shares were sold.
- (6) A corporation, however constituted, may exercise its powers under subsections (3) and (4) notwithstanding the provisions of its memorandum or articles of association, any instrument or any Act or law.
- (7) Where the shares of a person in a corporation have been disposed of in accordance with a notice by a corporation under subsection (3), any later transfer to the person of shares in the corporation shall be void unless the prior permission of the registrar to the transfer has been given to the person in writing.

14 Employment of disqualified person

- (1) The registrar may, by notice in writing, require a licensee who employs in connection with the licensee's business as a farm produce seller a specified person who is disqualified from holding a licence to cease so employing that specified person within such period (being not less than 28 days) after service of the notice as is specified in the notice.
- (2) Where a person who has been served with a notice under subsection (1) requiring the person to cease employing a specified person in connection with the person's business as a farm produce seller has not ceased so to employ the specified person within the period specified in the notice or within such further period as the registrar may have allowed or, having ceased so to employ the specified person, so employs the specified person again without the prior permission of the registrar, the licence of the person shall be suspended, and the person so served shall be disqualified from holding a licence, until the person ceases so to employ the specified person.

15 Registrar may require fresh indemnity

- (1) Where the registrar forms the opinion that an indemnity is no longer adequate security in respect of a licensee, the registrar may, by notice in writing, require the licensee to furnish the registrar with an indemnity which is, in accordance with section 11, adequate security in respect of the licensee, within such period (being not less than 28 days) after service of the notice as is specified in the notice.
- (2) Where a person has been served with a notice under subsection (1) requiring the person to furnish the registrar with another indemnity and, within the period specified in the notice or within such further period as the registrar may have allowed, an indemnity in a form, and from a person, approved by the registrar which is, in accordance with section 11, adequate security in respect of the person is not furnished to the registrar, the licence of the person shall be suspended, and the person shall be disqualified from holding a licence, until an indemnity in a form, and from a person, approved by the registrar which is, in accordance with that section, adequate security in respect of the person has been furnished to the registrar.

16 Cancellation of licence

- (1) The grounds upon which a licence may be cancelled by the registrar are that:
 - (a) the licence was granted:
 - (i) erroneously, or
 - (ii) in consequence of a false or fraudulent document, statement or representation,
 - (b) the holder of the licence is disqualified from holding a licence under section 10 or

10A,

- (c) the holder of the licence has committed an offence under section 22 or 24, notwithstanding that the holder has not been convicted of the offence, or
 - (d) judgment has been obtained in an action upon an indemnity in respect of default by the holder of the licence acting as farm produce seller in contravention of this Act or the regulations.
- (2) Where the registrar is satisfied that there are grounds upon which the registrar may cancel a licence, the registrar may:
- (a) by notice in writing served on the holder of the licence, inform the holder that the registrar proposes to cancel the licence and of the registrar's reasons for doing so, and
 - (b) allow the holder of the licence a period of 28 days to show cause why the licence should not be cancelled.
- (3) Where, within the period allowed under subsection (2) (b), a holder of a licence has not shown sufficient cause why the licence should not be cancelled, the registrar may, by an order in writing served on the holder of the licence, cancel the licence.
- (4) The registrar may, at any time, cancel a licence at the request of the holder and the provisions of subsections (1), (2) and (3) do not apply to such a cancellation.

17 Disqualification in lieu of cancellation where licence expired

- (1) Where the registrar is satisfied that a ground upon which the registrar may cancel a licence as referred to in section 16 (1) (c) or (d) arose while the licence was in force but the licence was not cancelled before it ceased to be in force by reason of the expiration of a licence period, the registrar may:
- (a) by notice in writing served on the person who was the holder of the licence, inform the person that the registrar proposes to disqualify the person from holding a licence and of the registrar's reason 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.
- (2) Where, within the period allowed under subsection (1) (b), a person has not shown sufficient cause why the person should not be disqualified from holding a licence, the registrar may, by an order in writing served on the person, disqualify the person from holding a licence.

18 Suspension, cancellation or disqualification not effective pending appeal etc in certain

cases

- (1) Where, before the expiration of the period within which a requirement made by the registrar under section 13 or 14 is to be complied with, the holder of a licence appeals under section 19 (1) against the requirement, any suspension or disqualification by reason of non-compliance with the requirement shall not take effect until the appeal is determined or withdrawn.
- (2) The cancellation of a licence by the registrar upon the ground referred to in section 16 (1) (a) shall not take effect:
 - (a) until the expiration of the period of 28 days after the notice of the cancellation was given to the holder of the licence, or
 - (b) where the holder of the licence appeals against the cancellation under section 19 (1) before the expiration of that period—until the appeal is determined or withdrawn.

Division 4 Appeals

19 Appeals

- (1) A person who is aggrieved by:
 - (a) a refusal by the registrar to:
 - (i) grant a licence, or
 - (ii) lift a disqualification under section 10 (5),
 - (b) a requirement made by the registrar under section 13, 14 or 15,
 - (c) the cancellation by the registrar of a licence under section 16, or
 - (d) the disqualification of a person from holding a licence imposed by section 10 or under section 10A or 17,may, within 28 days after the refusal, the making of the requirement, the cancellation or the disqualification, appeal to the District Court in accordance with the rules of court.
- (2) In hearing an appeal under subsection (1), the District Court is not bound by the rules or practice as to evidence and may inform itself of any matter in such manner as it thinks fit.
- (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.

- (3) In determining an appeal under subsection (1), the District Court:
- (a) may:
 - (i) confirm the refusal, requirement, cancellation or disqualification the subject of the appeal,
 - (ii) in the case of an appeal under subsection (1) (a), direct that the registrar grant a licence to the person aggrieved or, as the case may be, lift a disqualification in respect of the person,
 - (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
 - (b) may make such other orders as may be necessary or appropriate.
- (4) The decision of the District Court in respect of an appeal under subsection (1) shall be final and conclusive and shall be given effect to by the registrar.
- (5) Where the registrar fails to determine an application made under section 9 for the grant of a licence, or section 10 (4) for a disqualification to be lifted, within a period of 90 days after receipt of the application, the registrar shall, for the purposes of this section be deemed, at the expiration of the period, to have refused to grant the licence or, as the case may be, to have refused to lift the disqualification.

Part 4 Provisions relating to the sale etc of farm produce

20 Sales deemed to be on agency basis except in certain circumstances

- (1) Where, but for this subsection, an agreement by a farm produce seller in the course of acting as a farm produce seller to purchase farm produce from a person would be effective to pass property in the farm produce, the agreement is effective to pass the property only to the extent that:
- (a) it relates to farm produce received by the farm produce seller after the amount payable in respect of the purchase as referred to in section 24 (1) is paid, or
 - (b) it relates to any other farm produce if:
 - (i) it contains the prescribed particulars, and
 - (ii) the farm produce seller informs the person, after the receipt of that farm produce that the farm produce so received complies with the agreement.
- (2) Where farm produce is in the possession of, or is sold by, a farm produce seller in the

course of carrying on business as a farm produce seller and the property in the farm produce has not passed to the farm produce seller by reason of subsection (1) or otherwise, the farm produce shall be deemed to be in the farm produce seller's possession, or sold by the farm produce seller, as a farm produce agent on behalf of the person in whom property in the farm produce is vested.

21 Advice of sales by farm produce agent

- (1) A farm produce seller shall, on or before the Friday in the week immediately following a sale or other disposal of farm produce made by the farm produce seller as a farm produce agent on behalf of a person, render to the person an account of the sale or disposal which complies with the requirements of subsection (2).

Maximum penalty: 20 penalty units.

- (2) The account referred to in subsection (1) shall be in writing in or to the effect of the prescribed form and shall contain the prescribed particulars.

22 Payment of proceeds of sale by farm produce agent

- (1) The amount payable in respect of a sale of farm produce made by a farm produce seller as a farm produce agent on behalf of a person is the amount of the purchase money less only the following deductions:
 - (a) commission at the prescribed rate or in the prescribed amount,
 - (b) such charges and other deductions as may be permitted by the regulations to be deducted at the prescribed rate or in the prescribed amount,
 - (c) any amount required to be deducted pursuant to a regulation referred to in section 29,
 - (d) any prescribed expense payable in respect of the farm produce,
 - (e) subject to section 30, such other amount as the farm produce seller and the person may have agreed to in writing before the sale.
- (2) A farm produce seller shall, on or before the Friday in the week immediately following a sale of farm produce made by the farm produce seller as a farm produce agent on behalf of a person, pay to the person or to such other person, or both, and in such manner as the person may direct in writing the amount payable in respect of the sale as referred to in subsection (1).
- (3) The amount payable in respect of a sale as referred to in subsection (1) shall be paid by a farm produce seller in accordance with that subsection whether it has been received by the farm produce seller or not.

Maximum penalty: 20 penalty units.

23 Notice of purchase by farm produce merchant

- (1) A farm produce seller shall, on or before the Friday in the week immediately following the purchase by the farm produce seller of farm produce purchased by him or her as a farm produce merchant from a person, forward to the person a notice of the purchase which complies with the requirements of subsection (2).

Maximum penalty: 20 penalty units.

- (2) The notice referred to in subsection (1) shall be in writing in or to the effect of the prescribed form and shall contain the prescribed particulars.

24 Payment of purchase money by farm produce merchant

- (1) The amount payable in respect of a purchase from a person of farm produce made by a farm produce seller as a farm produce merchant is the amount of the purchase money less only the following deductions.
 - (a) any amount required to be deducted pursuant to a regulation referred to in section 29,
 - (b) any prescribed expense payable by the person from whom the farm produce was purchased in respect of the farm produce,
 - (c) subject to section 30, such other amount as the farm produce seller and the person from whom the farm produce was purchased may have agreed to in writing before the purchase.
- (2) A farm produce seller shall, on or before the Friday in the week immediately following the purchase by the farm produce seller of farm produce purchased by him or her as a farm produce merchant from a person, pay to the person or to such other person, or both, and in such manner as the person may direct in writing the amount payable in respect of the purchase as referred to in subsection (1).

Maximum penalty: 20 penalty units.

25 Order for payment

- (1) The court before which a farm produce seller is convicted of an offence under section 22 or 24 shall, in addition to any penalty imposed, order the farm produce seller forthwith to pay to the person entitled to it the net amount calculated in accordance with that section or the balance of that amount then owing.
- (2) Upon entry of a certified copy of an order made under subsection (1) in the records of any court of petty sessions exercising civil jurisdiction, the order shall operate as a judgment made, and be enforceable, under the *Courts of Petty Sessions (Civil Claims) Act 1970*.

26 False accounts

A farm produce seller shall not render a false account of the receipt, sale or disposal of any farm produce or of any money received in connection therewith or of the application of that money.

Maximum penalty: 50 penalty units.

27 Restriction on persons to whom agents may sell consignments

- (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.
- (2) Except in accordance with the regulations, an employee of a farm produce seller shall not purchase, or be in any way interested or concerned in the purchase of, any farm produce in respect of which his or her employer is acting as farm produce agent for a person without having previously obtained the person's consent in writing to the purchase.
- (3) A farm produce seller shall not charge commission in respect of the sale of any farm produce which is purchased or sold as referred to in subsection (1) or (2).

Maximum penalty (subsection (1), (2) or (3)): 20 penalty units.

- (4) The court before which a person is convicted of an offence under this section in respect of a sale or purchase of farm produce made without the prior consent of another person, shall, in addition to imposing any penalty, order the person forthwith to account for and pay over to the other person an amount equivalent to the profits resulting from the sale or purchase.
- (5) Upon entry of a certified copy of an order made under subsection (4) in the records of any Local Court exercising civil jurisdiction, the order shall operate as a judgment made, and be enforceable, under the *Local Courts (Civil Claims) Act 1970*.

28 Destruction of farm produce

A farm produce seller shall not, by himself or herself or by his or her agent or servant,

destroy or discard any farm produce not the farm produce seller's property except by the written direction of, or with the written authority first had and obtained of, a prescribed officer.

Maximum penalty: 20 penalty units.

29 Deductions to be made on behalf of other persons

A regulation may be made or with respect to requiring a farm produce seller by whom money is payable to a person by reason of a sale made as a farm produce agent or a purchase made as a farm produce merchant:

- (a) to deduct from the money a specified charge, fee or other amount payable by the person to another person in respect of a service or facility provided by the other person in relation to the sale of farm produce by or on behalf of the person or in relation to the purchase of farm produce from the person, and
- (b) to pay any such charge, fee or other amount so deducted to the other person.

30 Regulation of commission and other charges

(1) A person shall not charge, sue for or recover:

- (a) any commission for or in respect of the sale or disposal of farm produce, except commission not exceeding commission at the prescribed rate or in the prescribed amount,
- (b) any fees, charges, commission, reward or other remuneration for or in respect of the performance or doing of any service, act or thing incidental to the sale or disposal of farm produce or in relation to any farm produce sold or disposed of by the person or forwarded or delivered to or received by the person for sale or disposal unless the service, act or thing is a service, act or thing prescribed as one in respect of which fees, charges, commission, reward or other remuneration may be charged, sued for or recovered, or
- (c) any fees, charges, commission, reward or other remuneration for or in respect of any service, act or thing so prescribed in excess of the fees, charges, commission, reward or other remuneration at the prescribed rate or in the prescribed amount for the service, act or thing.

(2) A person shall not charge, sue for or recover any fees, charges, commission, reward or other remuneration for or in respect of the sale or disposal of farm produce made by a person other than a licensee or for or in respect of any service, act or thing incidental to a sale or disposal of farm produce and performed or done by or on behalf of a person other than a licensee or in relation to farm produce sold or disposed of by a person other than a licensee.

Maximum penalty: 20 penalty units.

31 Misrepresentation of description, grade etc

- (1) A person shall not sell, offer or expose for sale, or supply, any farm produce falsely represented by the person, expressly or impliedly, to be of a particular description, origin, grade or quality.
- (2) A person offering or exposing for sale any farm produce or supplying or exhibiting a sample of farm produce shall not, upon an offer to purchase farm produce of the same quality or at the same price as that of the farm produce offered or exposed or as that of the sample, supply to the person making the offer farm produce of a quality inferior to that of the farm produce offered or exposed for sale or to that of the sample.
- (3) A person offering or exposing for sale a quantity of farm produce shall not, upon an offer to purchase farm produce from that quantity, refuse to supply the purchaser from that quantity.

Maximum penalty: 20 penalty units.

Part 5 Miscellaneous

32 Register

- (1) The registrar shall keep a register of licensees which shall be open to inspection, upon payment of the prescribed fee, by any person at the office of the registrar at all times when that office is open for business.
- (2) The register kept under subsection (1) shall contain:
 - (a) particulars of:
 - (i) all licences,
 - (ii) all indemnities furnished to the registrar in respect of licensees,
 - (iii) the cancellation of licences,
 - (iv) the disqualification of persons from holding a licence under section 17, and
 - (v) requirements made by the registrar under section 13, 14 or 15, and
 - (b) such other particulars as may be prescribed.
- (3) Subsections (1) and (2) do not require the registrar to keep in the register particulars relating to licences which have ceased to be in force for the prescribed period.

33 Refund of fees

Where:

- (a) an application for a licence is refused or withdrawn, or

(b) a licence is cancelled,

the registrar may refund to the applicant or former holder of the licence, or to any other person who appears entitled thereto, the whole or any part of a fee which has been paid to the registrar by the applicant or former holder of the licence.

34 Licensee to notify certain changes

- (1) A corporation which is the holder of a licence shall notify the registrar of any change in the directors of the corporation within 7 days after the change and of the details of any transfer or issue of, or any alteration in the rights attached to, shares in the corporation within 7 days after the registration of the transfer or the making of the issue or alteration, as the case may require.
- (2) A holder of a licence who:
 - (a) becomes a member of a partnership acting as farm produce sellers shall notify the registrar of details of the membership of the partnership within 7 days after becoming a member of the partnership,
 - (b) is a member of a partnership acting as farm produce sellers shall notify the registrar of any change in the membership of the partnership within 7 days after the change,
 - (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.

Maximum penalty: 2 penalty units.

35 Records required to be kept under this Act to be kept at registered office

- (1) The registered office of a licensee shall be:
 - (a) the place or places the licensee specified as the licensee's proposed registered office in a notification accompanying his or her first application for a licence as referred to in section 9 (3) (b), or
 - (b) such other place or places as the registrar may have, upon application by the licensee for a change of the licensee's registered office, consented to being the registered office of the licensee.
- (2) A licensee shall not remove any of the books, documents or other records required to be kept by the licensee by or under this Act from his or her registered office without

the prior consent of the registrar.

Maximum penalty: 20 penalty units.

- (3) The registrar shall not give his or her consent to the change of the registered office of a licensee or the removal of books, documents or other records from the registered office of a licensee unless the registrar is satisfied that:
- (a) the books, documents or other records of the licensee required to be kept by the licensee by or under this Act will not be unduly exposed to risk of damage or loss by the change or removal, and
 - (b) the change or removal is in the normal course of business.

36 Service of notices, orders etc on farm produce seller

All written notices and orders and other documents required to be served or given to a licensee shall be deemed to be duly served on, or given to, the licensee if left at the registered office of the licensee.

37 Premises

A person shall not display or permit to be displayed over or about any premises or part of premises or any place occupied by the person any sign or notice which is capable of being understood to indicate that the occupier thereof is a farm produce seller unless the person is a licensee.

Maximum penalty: 20 penalty units.

38 Inspection of books etc

- (1) For the purpose of ascertaining whether any offence against this Act or the regulations has been committed, the registrar or an inspector may, at any reasonable time, enter the registered office of a licensee or any other premises or place in which the registrar has reasonable cause to believe the business of selling farm produce as a farm produce seller is being carried on or in which any books, documents or other records required under this Act are kept and may:
- (a) search the registered office, the premises or place, and
 - (b) inspect any books, documents or other records found in or upon the registered office, the premises or place relating to any transaction in connection with farm produce, and take copies thereof or of any entries therein.
- (2) For the purpose of, or in connection with, a search or inspection under subsection (1), the registrar or an inspector may:
- (a) require any person having farm produce in the person's possession for sale or for use in connection with any business, commercial or trading undertaking or who

the registrar or the inspector has reasonable cause to believe has farm produce in the person's possession for such a purpose to furnish the registrar or the inspector with information as to the ownership and source of any farm produce in the person's possession, and

- (b) require any person to produce for the registrar's or the inspector's inspection any book or other record in the person's possession or under his or her control and kept by the person under this Act or the regulations or required by or under this Act or the regulations to be kept by the person or any docket or other document in the person's possession or under his or her control and delivered to the person in accordance with this Act or the regulations or required by or under this Act or the regulations to have been delivered to the person in respect of farm produce purchased by the person for resale or for use in connection with any business, commercial or trading undertaking, and take copies thereof or of any particulars contained therein.
- (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.
- (4) A person shall not assault, hinder, obstruct or interfere with the registrar or an inspector in the exercise of the registrar's or the inspector's powers under subsection (1) or, when so required under subsection (2):
- (a) refuse or neglect to furnish information,
 - (b) furnish any information which is false or misleading in any material particular,
 - (c) refuse or neglect to produce any book, document or other record, or
 - (d) produce any book, document or other record which contains particulars which are false or misleading in any material particular.

Maximum penalty: 20 penalty units.

- (5) It is a defence to any prosecution for refusal or neglect to produce a book, document or other record required to be produced under subsection (2) if the person charged proves that the book, document or other record has been destroyed or disposed of in accordance with the provisions of this Act or the regulations.
- (6) Any information furnished pursuant to a requirement made under subsection (2) (a) shall not, if the person furnishing the information objected, at the time of furnishing it,

to doing so on the ground that it might tend to incriminate the person, be admissible in evidence in any prosecution against that person for any offence or in any proceedings relating to any offence, not being the offence of refusing or neglecting to comply with a requirement made under that subsection.

39 Entries in farm produce seller's books etc deemed made by seller

Every entry in a book, account, document, writing or other record issued or kept by or belonging to a farm produce seller or found on premises or a place occupied by the farm produce seller and relating to his or her business as a farm produce seller shall, unless the contrary is shown, be deemed to have been made by or with the authority of the farm produce seller.

40 Destruction of books etc

A person required by or under this Act to keep or make a book, document or other record shall not, without the permission of the registrar or an inspector, destroy or dispose of, or authorise or permit the destruction or disposal of, any such book, document or other record within 12 months after the last entry was made in the book or, as the case may be, within 12 months after the document or other record was made.

Maximum penalty: 10 penalty units.

41 False or misleading statements

A person shall not, in an application for a licence, make any statement which the person knows to be false or misleading in a material particular.

Maximum penalty: 5 penalty units.

42 Disclosure of information

A person shall not, without lawful excuse, disclose any information obtained by the person in connection with the administration or execution of this Act.

Maximum penalty: 20 penalty units.

43 Offence by corporation

(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 officer concerned with the management of the corporation, shall be deemed to have contravened the same provision unless he or she satisfies the court that:

- (a) the corporation contravened the provision without his or her knowledge,
- (b) he or she was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
- (c) he or she, being in such a position, used all due diligence to prevent the

contravention of the provision by the corporation.

- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.
- (3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against that provision is actually committed.

44 Proceedings for offences

- (1) Proceedings for an offence against a provision of this Act or the regulations shall be disposed of summarily before a Local Court.
- (2) Any such proceedings may be commenced by information laid within 12 months after the time when the offence is alleged to have been committed.

45 Civil remedies not affected

Nothing in this Act affects any civil or criminal remedy which may exist against a farm produce seller with respect to any matter.

46 Right to inspect and sue upon indemnity

- (1) A person for whom a licensee is acting or has acted as a farm produce agent or with whom a licensee is dealing or has dealt as a farm produce merchant may, on payment of the prescribed fee, inspect the indemnity furnished to the registrar in respect of the licensee and take a copy thereof.
- (2) A person referred to in subsection (1) may, with the written consent of the registrar, sue upon an indemnity furnished to the registrar in respect of any loss by the person and covered by the indemnity and may take such other proceedings against the person who gave the indemnity as are necessary to recover the amount of the loss as if he or she were the registrar.

47 Notice of cancellation or suspension of licence

Where the Minister is satisfied that it is necessary to do so, the Minister may cause to be published, in such manner as the Minister thinks fit, a notice of the cancellation or suspension of a licence under this Act or any similar legislation of any other State, territory or country.

48 Notice calling for claims

- (1) Where the Minister is satisfied that it is necessary to do so, the Minister may cause to be published in a newspaper published and circulating in Sydney, and in such other manner (if any) as the Minister thinks fit, a notice requiring details of any claim by a

person against a specified person who is or was a licensee to be given to the registrar within the period specified in the notice (being a period not less than 28 days after the notice is given) and stating that, at the expiration of that period, the registrar may claim upon the indemnity in respect of the person having regard only to the claims of which the registrar is aware.

- (2) Where the registrar has, after the expiration of the period specified in a notice or, as the case may be, in the last of the notices given under subsection (1), claimed upon, and recovered money under, an indemnity, the registrar may refuse to reimburse out of money received by the registrar under the indemnity any person of whose claim the registrar was not aware at the time the registrar claimed upon the indemnity.

49 Reimbursement for loss at discretion of registrar

The reimbursement of persons out of money received by the registrar under an indemnity for loss arising from default by a person acting as a farm produce seller in contravention of this Act or the regulations shall be at the discretion of the registrar who, having regard to:

- (a) the extent to which persons have, to the satisfaction of the registrar, proven their loss, and
- (b) the total amount of loss so proven in relation to the total amount of money received by the registrar,

may decide whether any particular person shall be reimbursed and, if so, what reimbursement shall be made.

50 Certificate as to whether licence held

In any proceedings against a person for a contravention of a provision of this Act or the regulations, a certificate purporting to be under the hand of the registrar is admissible in evidence to prove the fact that the person charged was or was not, as the case may be, on the date mentioned in the certificate a licensee and is prima facie evidence of the fact stated therein.

51 Evidence as to origin of farm produce

In any proceedings for an offence against a provision of this Act or the regulations:

- (a) the fact that any farm produce, or any case, box, bag or other receptacle which contains farm produce is marked:
 - (i) with the name of a person who is a producer or harvester of that class of farm produce or who otherwise deals with that class of farm produce in a prescribed manner, or
 - (ii) otherwise with any mark commonly used by such a person to denote farm

produce produced or harvested by the person or farm produce with which the person deals in a prescribed manner, or

- (b) a statement made by a farm produce seller at or about the time of a sale by him, in reply to questions asked of him by the purchaser, the registrar or an inspector, that a person is the producer or harvester of farm produce or the farm produce was dealt with by a person in a prescribed manner,

is prima facie evidence that the farm produce was produced, harvested or dealt with in that manner by the person.

52 Certificate as to variety, grade or size of farm produce

- (1) This section applies in relation to farm produce to which section 18A of the *Plant Diseases Act 1924* applies.
- (2) An inspector appointed under the *Plant Diseases Act 1924* may, on payment of the prescribed fee, certify that farm produce is of a particular variety, grade or size.
- (3) A certificate purporting to be under the hand of an inspector appointed under the *Plant Diseases Act 1924* certifying the variety, grade or size of farm produce is admissible in evidence in any proceedings and is prima facie evidence of the matters stated therein.

53 Evidence—consignment notes and other documents

- (1) A consignment note in or to the effect of the prescribed form which:
 - (a) is in respect of the delivery of farm produce, and
 - (b) contains particulars which purport to have been acknowledged by the signatures of the person who delivered the farm produce and the person to whom it was delivered,

is admissible in evidence in any proceedings and is prima facie evidence of the facts contained therein.

- (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.
- (2) A person shall not, on a consignment note in respect of farm produce or a document referred to in subsection (1A):
 - (a) falsely specify any particular, or

- (b) acknowledge by the person's signature any particular contained therein without knowing whether the particular is true or false or knowing the particular to be false.

Maximum penalty: 20 penalty units.

54 Contracting out void

The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before, on or after the day appointed and notified under section 2 (2) operates to annul, vary or exclude any of the provisions of this Act.

55 Regulations

- (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 carrying out or giving effect to this Act and, in particular, for or with respect to:
 - (a) the manner in which the register of licensees is to be kept,
 - (b) the form and manner of issue of receipts for money received on account of any other person by farm produce sellers acting as farm produce agents,
 - (c) the maximum fees, charges, commission and other remuneration which farm produce sellers may charge for their services as farm produce sellers,
 - (d) the fees which may be charged under this Act,
 - (e) the form and particulars of account sales to be rendered to any principals by farm produce sellers acting as farm produce agents,
 - (f) the manner in which farm produce received by a farm produce seller shall be stored, ripened or otherwise treated by the farm produce seller,
 - (g) the manner in which any farm produce or any case, box, bag or other receptacle which contains farm produce delivered or consigned to a farm produce seller shall be marked,
 - (h) the manner in which any case, box, bag or other receptacle which contains farm produce repacked by a farm produce seller shall be marked to indicate that it has been repacked by the farm produce seller,
 - (i) the display of signs by a farm produce seller, indicating that he or she is a farm produce seller,
 - (j) prohibiting or regulating any sales or purchases of farm produce by farm produce sellers,

- (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,
 - (k) prescribing the books, documents and other records to be kept by farm produce sellers,
 - (l) requiring the delivery by farm produce sellers to purchasers of dockets or documents containing the prescribed particulars with respect to farm produce sold and the retention of dockets or other documents required to be delivered or issued under this Act by the persons to whom they are delivered or issued,
 - (m) prescribing a form of consignment note,
 - (m1) prescribing forms of agreements relating to the terms and conditions of sale of farm produce, and
 - (n) otherwise prohibiting or regulating the marketing of farm produce or marketing practices in relation to farm produce by farm produce sellers.
- (2) The provisions of any regulation made under this section prevail over the *Local Government Act 1993*, and any regulation made under that Act, to the extent of any inconsistency.
- (3) 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.
- (4) A regulation may impose a penalty not exceeding 10 penalty units for any offence against the regulations.

56 Repeals

Each Act specified in Column 1 of Schedule 1 is, to the extent specified in Column 2 of that Schedule, repealed.

57 Savings and transitional provisions

Schedule 2 has effect.

Schedule 1 Repeals

(Section 56)

Column 1	Column 2	
Year and number of Act	Short title of Act	
	Extent of repeal	
1926 No 7	<i>Farm Produce Agents Act 1926</i>	The whole Act
1932 No 7	<i>Farm Produce Agents (Amendment) Act 1932</i>	The whole Act
1937 No 35	<i>Statute Law Revision Act 1937</i>	So much of the Second Schedule as amended Act No 7, 1926
1941 No 28	<i>Auctioneers and Agents Act 1941</i>	Section 22 (6)
1952 No 40	<i>Farm Produce Agents (Amendment) Act 1952</i>	The whole Act
1960 No 3	<i>Farm Produce Agents (Amendment) Act 1960</i>	The whole Act
1965 No 33	<i>Decimal Currency Act 1965</i>	So much of the First Schedule as amended Act No 7, 1926

Schedule 2 Savings and transitional provisions

(Section 57)

1 Definitions

In this Schedule:

appointed day means the day appointed and notified under section 2 (2).

former Act means the *Farm Produce Agents Act 1926*.

2 Former licences to have no effect after appointed day

- (1) A licence issued under the former Act and in force immediately before the appointed day ceases to have any effect on and from the appointed day.
- (2) No refund shall be payable in respect of any part of the fee paid in respect of a licence, or the annual renewal of a licence, which ceases to have effect as referred to in subclause (1).

3 Registrar and deputy registrar

The persons holding the offices of registrar and deputy registrar under the former Act shall be deemed to have been appointed as registrar and deputy registrar, respectively, under this Act.

4 Bonds given under former Act

- (1) A bond given to the registrar appointed under the former Act and in force immediately before the appointed day shall be deemed to be given to the registrar appointed under this Act and shall be enforceable by the registrar appointed under this Act in the same way as it would be enforceable by the registrar appointed under the former Act if this Act were not enacted.
- (2) Except as provided by subsection (1), the repeal of the former Act shall not affect a bond given under that Act.

5 Books etc kept under former Act

This Act and the regulations apply to and in respect of books, documents and other records required to be kept or made by or under the former Act in the same way as they apply to and in respect of books, documents and other records required to be kept or made by or under this Act.

6 References to former Act and licences under former Act

A reference to the former Act or to a licence under or issued under the former Act in any Act (other than this Act) or in any instrument made under any such Act shall, except in so far as the context may otherwise require, be respectively read and construed as a reference to this Act or a licence under this Act.

7 Regulations

- (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 date of assent to this Act 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 State or a public authority), the rights of that person existing before the date of its publication therein, or
 - (b) to impose liabilities on any person (other than the State or a public authority) 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 the foregoing clauses of this Schedule.