

TOBACCO MARKETING ACT 1965

1 The as shown in this reprint comprises Act No. 85, 1965 amended as indicated in the Tables below.

Table of Amendments

ad=added or inserted am=amended rep=repealed rs=repealed and substituted

Provision affected	How affected
S. 3	rep. No. 216, 1973
S. 4	am. No. 15, 1990
Heading to Part II	rs. No. 15, 1990
Ss. 5-11	am. No. 15, 1990
S. 13	am. No. 216, 1973; No. 15, 1990
S. 14	am. No. 15, 1990
Heading to Part III	am. No. 15, 1990
Ss. 15, 16	am. No. 15, 1990
S. 17	am. No. 216, 1973; No. 65, 1985; No. 15, 1990
S. 18	am. No. 93, 1966; No. 15, 1990
Ss. 19, 20	am. No. 15, 1990
S. 21	am. No. 51, 1988; No. 15, 1990
Ss. 22-25	am. No. 15, 1990
S. 26	am. No. 36, 1978; No. 15, 1990
S. 27	rs. No. 48, 1982
S. 28	am. No. 15, 1990
S. 29	am. No. 93, 1966

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LONG TITLE

An Act relating to the Marketing of Tobacco Leaf

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Tobacco Marketing Act 1965.*1*
SEE NOTES TO FIRST ARTICLE OF THIS CHAPTER .

Commencement

2. This Act shall come into operation on the day on which it receives Royal Assent.*1*
SEE NOTES TO FIRST ARTICLE OF THIS CHAPTER .

Interpretation

4. In this Act, unless the contrary intention appears:

"approved bank" means the Reserve Bank of Australia or another bank approved by the Treasurer for the purposes of the provision in which the expression is used;

"member" means member of the Committee;

"State Board, in relation to a State, means the authority, if any, constituted by or under the law of the State, whether before or after the commencement of this Act, that is empowered to perform functions in relation to the marketing of tobacco;

"the appropriate Minister", in relation to a State, means the Minister of State of the State administering the Department of the State dealing with agricultural matters, and includes a Minister of State of that State acting on behalf of that Minister;

"the Auditor-General" means the Auditor-General for the Commonwealth;

"the Chairman" means the Chairman of the Committee;

"the Committee" means the Australian Tobacco Marketing Advisory Committee established by subsection 5 (1);

"the Deputy Chairman" means the Deputy Chairman of the Committee;

"tobacco leaf" means leaf of the tobacco plant that has been cured, but has not been subjected to any process of manufacture other than drying or re-drying.

PART II - AUSTRALIAN TOBACCO MARKETING ADVISORY COMMITTEE

Establishment of Committee

5. (1) For the purposes of this Act, there is hereby established a board by the name of the Australian Tobacco Marketing Advisory Committee.

(2) The Committee:

(a) is a body corporate, with perpetual succession;

(b) shall have a common seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Committee affixed to a document and shall presume that it was duly affixed.

Membership of the Committee

6. (1) The Committee shall consist of twelve members, namely:

- (a) one member to represent the Commonwealth;
- (b) one member to represent the State of New South Wales;
- (c) one member to represent the State of Victoria;
- (d) one member to represent the State of Queensland;
- (e) one member to represent tobacco growers in the State of New South Wales;
- (f) one member to represent tobacco growers in the State of Victoria;
- (g) one member to represent tobacco growers in the State of Queensland;
- (h) one other member to represent tobacco growers; and
- (i) four members to represent tobacco manufacturers.

(2) The members referred to in paragraphs (a), (h) and (i) of the last preceding subsection shall be appointed by the Minister.

(3) A member representing a State shall be appointed by the Minister on the nomination of the appropriate Minister of the State.

(4) A member representing tobacco growers in a State shall be appointed in the following manner:

- (a) if there is a State Board in the State - he shall be appointed by the Minister from amongst the members of the State Board on the nomination of the appropriate Minister of the State; or
- (b) if there is no State Board in the State - he shall be appointed by the Minister on the nomination of the appropriate Minister of the State.

(5) Subject to this Act, a member holds office for such period as is specified in the instrument of appointment, being a period not exceeding four years.

(6) A member appointed in accordance with paragraph (a) of subsection (4) of this section ceases to hold office if he ceases to be a member of the State Board.

(7) Where, after the appointment of a member in accordance with paragraph (b) of subsection (4) of this section, a State Board is constituted in the relevant State, that member ceases to hold office on the day on which the State Board is constituted.

(8) If a member ceases to hold office before the expiration of his term of office, a person may be appointed, in accordance with this section, to hold the vacant office for the remainder of the term of office of the member.

(9) The appointment of a member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in connexion with his appointment.

(10) The exercise of a power or the performance of a function of the Committee is not invalidated by reason only of a vacancy or vacancies in the membership of the Committee.

(11) A member is eligible for re-appointment.

Chairman

7. The member representing the Commonwealth is Chairman of the Committee.

Deputies of members

8. (1) There shall be a deputy of each member of the Committee.

(2) The deputy of a member shall be appointed in the same manner as the member of whom he is the deputy.

(3) The deputy of a member holds office during the pleasure of the Minister, but the Minister shall not remove from office the deputy of a member referred to in paragraph (b), (c), (d), (e),

(f) or (g) of subsection (1) of section 6 of this Act unless he has consulted the appropriate Minister of the relevant State with respect to the removal.

(4) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Committee, to attend that meeting and, when so attending, shall be deemed to be a member.

(5) The deputy of the member representing the Commonwealth shall be the Deputy Chairman of the Committee.

Remuneration and allowances

9. (1) Members and deputies of members shall be paid such remuneration and allowances as the Governor-General determines.

(2) If a member or a deputy of a member is a member of, or a candidate for election to, the Parliament of the Commonwealth or of a State, he shall not be paid remuneration or allowances under the last preceding subsection, but shall, subject to the approval of the Minister, be reimbursed such expenses as he reasonably incurs by reason of his attendance at meetings of the Committee or of his engagement (whether in Australia or overseas), with the approval of the Committee, on business of the Committee.

(3) A person invited by the Committee to attend a meeting of the Committee may be paid in respect of that attendance such fees and allowances as the Minister determines.

Meetings of the Committee

10. (1) The Committee shall hold meetings at such times and places as the Committee determines.

(2) The Chairman or, when the Chairman is outside Australia or the office of Chairman is vacant, the Deputy Chairman, may, at any time, convene a meeting of the Committee and shall do so upon the request in writing of not less than five members.

(3) The Chairman shall preside at all meetings of the Committee at which he is present.

(4) In the absence of the Chairman from a meeting of the Committee, the Deputy Chairman, if he is present, shall preside.

(5) In the event of the absence of both the Chairman and the Deputy Chairman from a meeting of the Committee, the members present shall elect one of their number to preside at that meeting.

(6) At a meeting of the Committee, seven members constitute a quorum.

(7) A question arising at a meeting of the Committee shall be determined by a majority of votes of the members present and voting.

(8) The member presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) The Committee shall keep a record of its proceedings.

(10) The Committee may invite a person to attend a meeting of the Committee for the purpose of advising or informing the Committee on any matter.

Leave of absence

11. The Committee may grant leave of absence to a member upon such terms and conditions:

- (a) as to remuneration as the Governor-General determines; and
- (b) as to other matters as the Committee determines.

Removal of members

12. The Minister may remove a member from office for misbehaviour or inability to carry out the duties of his office.

Vacation of office

13. If a member of the Committee:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Committee, from three consecutive meetings of the Committee; or
- (c) is convicted of an offence punishable under a law of the Commonwealth, a State or a Territory by imprisonment for one year or longer;

the Minister shall, by notice published in the Gazette, remove the member from office.

Resignation

14. A member of the Committee, or the deputy of a member, may resign his office by notice under his hand delivered to the Minister.

PART III - FUNCTIONS AND POWERS OF THE COMMITTEE

Functions

15. The functions of the Committee are:

- (a) to make recommendations to the Minister with respect to the making of regulations for the purposes of section 18 of this Act;
- (b) to make reports and suggestions to, and to formulate plans for the consideration of, the Minister with respect to the interstate marketing, and the export and the marketing overseas, of Australian tobacco leaf;
- (c) with the consent of the Minister, to advise any State Board or other authority or person with respect to the interstate marketing, or the export and the marketing overseas, of Australian tobacco leaf; and
- (d) such other functions as are conferred on the Committee by or under this Act.

Powers generally

16. (1) The Committee has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions.

(2) Nothing in this Act prevents the Committee from exercising or performing, unless the Minister otherwise directs, a power, function or duty in relation to the marketing of tobacco leaf, whether in Australia or elsewhere, conferred or imposed on it by a State Act.

Staff

17. (1) Subject to this section, the Committee may employ such persons as it thinks necessary to assist the Committee in carrying out its functions and exercising any of its powers.

(2) The terms and conditions of employment of persons employed under this section are such as are, subject to the approval of the Minister determined by the Committee.

PART IV - EXPORT CONTROL

Regulations may prohibit export except on conditions

18. (1) For the purpose of enabling the Committee effectively to control the export, and the sale and distribution after export, of tobacco leaf, the regulations may prohibit the export from Australia of tobacco leaf by a person other than the Committee unless:

- (a) the Committee has issued a permit to the person to export the tobacco leaf and any conditions contained in the permit are complied with; and
- (b) the export is in accordance with such conditions and restrictions as are prescribed.

(2) Regulations prescribing conditions or restrictions for the purposes of paragraph (b) of the last preceding subsection shall not be made unless the conditions or restrictions, as the case may be, have been recommended to the Minister by the Committee.

(3) A person shall not export tobacco leaf from Australia in contravention of the regulations. Penalty: One thousand dollars.

PART V - FINANCE

Payments to the Committee

19. There shall be paid to the Committee out of the Consolidated Revenue Fund such amounts as are appropriated by the Parliament for the purposes of the Committee.

Bank accounts

20. (1) The Committee shall open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The Committee shall pay all moneys of the Committee into an account referred to in this section.

Application of moneys by Committee

21. The moneys of the Committee may be applied:

- (a) in payment or discharge of the expenses, charges and obligations of the Committee;
 - (aa) in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:
 - (i) the collection or recovery of charge imposed by the Tobacco Charge Act (No. 1) 1955, the Tobacco Charge Act (No. 2) 1955, or the Tobacco Charge Act (No. 3) 1955, additional charge imposed under section 18 of the Tobacco Charge Assessment Act 1955 or penalty imposed under section 29 of that Act; or
 - (ii) the administration of section 19 of this Act; and
- (b) in payment of any remuneration, allowances or fees payable to any person under this Act; but not otherwise.

Investment of moneys of the Committee

22. Moneys of the Committee not immediately required for the purposes of the Committee may be invested:

- (a) in securities of or guaranteed by the Commonwealth or a State;
- (b) on fixed deposit with an approved bank; or
- (c) in such other manner as the Treasurer approves.

Proper accounts and records to be kept

23. The Committee shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments of moneys under its control are properly authorized and correctly made and that adequate control is maintained over its assets and the incurring by it of liabilities.

Audit

24. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Committee and shall forthwith draw the Minister's attention to any irregularity revealed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

(2) The Auditor-General or an officer of the Public Service of the Commonwealth authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Committee relating directly or indirectly to the receipt or payment of moneys by the Committee or to the acquisition, receipt, custody or disposal of assets of the Committee.

(3) The Auditor-General or an officer of the Public Service of the Commonwealth authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(4) The Auditor-General or an officer of the Public Service of the Commonwealth authorized by him may require a member of the Committee or a member of the staff of the Committee to furnish him with such information in the possession of that person or to which that person has access as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Act, and that person shall comply with the requirement.

Taxation

25. (1) Subject to this section, the Committee is subject to taxation (other than taxes on income) under the laws of the Commonwealth, but is not subject to taxation under a law of a State or Territory to which the Commonwealth is not subject.

(2) Stamp duty imposed by or under the law of a State or Territory is payable by the Committee in respect of instruments and documents executed by or on behalf of the Committee.

PART VI - MISCELLANEOUS

Annual report of Committee

26. (1) The Committee shall, as soon as practicable after each thirty-first day of December, prepare and furnish to the Minister a report on the operation of this Act during the year ended on that date, together with financial statements in respect of that year in such form as the Minister for Finance approves.

(2) Before furnishing the financial statements to the Minister, the Committee shall submit them to the Auditor-General, who shall report to the Minister:

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and state of the affairs of the Committee;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Committee during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3) The Minister shall cause the report and financial statements of the Committee, together with the report of the Auditor-General, to be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

Operation of certain laws not restricted

27. Nothing in this Act or the regulations restricts the operation of the Customs Act 1901, the Commerce (Trade Descriptions) Act 1905 or the Export Control Act 1982, or of any regulations made under any one or more of those Acts.

Indemnity

28. A member of the Committee or the deputy of a member of the Committee or the Deputy Chairman, is not personally liable for an act of the Committee or for his act when acting as a member of the Committee, as the deputy of a member of the Committee, or as Deputy Chairman, as the case may be.

Regulations

29. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, prescribing penalties not exceeding a fine of One hundred dollars for offences against the regulations.