

# Egg Industry Act 1988

- Act 30 of 1988
- Consolidated as at 25 Sep 1999
- Royal Assent 29 September 1988

## LONG TITLE

An Act to facilitate the orderly production, supply, and marketing of eggs and egg products

## - PART I - PRELIMINARY

### - SECT 1 Short title Egg Industry Act 1988

1. This Act may be cited as the .

### - SECT 2 Commencement

2. (1) This section and section 1 shall commence on the day on which this Act receives the Royal Assent.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

### - SECT 3 Interpretation

3. In this Act, unless the contrary intention appears - ; "adjusted hen quota" means the adjusted hen quota for a licence for the time being fixed under section 37; "authorized agent" means an authorized agent of the Board; "base quota" means the base quota fixed for a licence under Division 3 of Part III; "Board" means The Egg Marketing Board continued in existence under section 4 (1); "chairman" means the person for the time being holding, or acting in, the office of chairman of the Board; "commercial producer" means a licensed producer who holds a base quota in excess of 1 000; "commodity" means eggs or egg products; "egg products" means the products obtained by subjecting eggs to a process of manufacture or treatment; "eggs" means hen eggs in their natural state; "election" means an election held as mentioned in section 6(1); "employee" has the same meaning as in the Government Business Enterprises Act 1995; "fowl" means a domesticated fowl of the genus Gallus; "hen" means a female fowl that is more than 6 months old; "inspector" means an employee or other person appointed as an inspector under section 9; "licence" means a licence granted and in force under Division 2 of Part III to keep more than 20 hens, and includes a licence granted and in force under section 28(3), but does not include a temporary licence; "licensed producer" means a person who holds a licence; "member" means a member of the Board; "producer" means a person by whom or on whose behalf a commodity is grown, produced, obtained, or prepared for sale, and, where the commodity is so grown, produced, obtained, or prepared pursuant to a share-farming or partnership agreement, includes every party to the agreement, but does not include an employee; "temporary licence" means a temporary licence granted and in force under section 30; "the regulations" means regulations made and in force under this Act; "sell" means -

- (a) sell, barter, or exchange;
- (b) agree or offer to sell, barter, or exchange;
- (c) expose, store, or deliver for or on sale, barter, or exchange; or

(d) authorize, direct, cause, suffer, or permit any act referred to in paragraph (a), (b), or (c); "State Hen Quota" means the State Hen Quota determined under section 37.

## **- PART II - THE EGG MARKETING BOARD**

### ***- Division 1 - Continuation of the Board and matters relating to the Board***

#### **- SECT 4 Continuation of The Egg Marketing Board**

4. The Board with the name of "The Egg Marketing Board" that was continued under the Egg Marketing Act 1957 shall continue.

#### **- SECT 5 Membership and chairmanship of Board**

5. (1) The Board shall consist of 5 members -

(a) one of whom shall, subject to subsection (2), be appointed by the Governor as the chairman of the Board;

(b) one of whom shall, subject to that subsection, be appointed by the Governor to represent consumers of eggs; and

(c) 3 of whom shall be commercial producers elected at an election held as mentioned in section 6(1).

(2) The chairman and the member referred to in subsection (1)(b) shall be persons who are not engaged, or financially interested, in the business of producing or selling eggs.

(3) Except as provided in subsection (4), Schedule 5 to the Government Business Enterprises Act 1995 applies with respect to the members of the Board as if they were directors appointed under section 11 (2) of that Act.

(4) Clauses 2 (1), 3 (2) and 9 (2) of Schedule 5 to the Government Business Enterprises Act 1995 do not apply to a member of the Board referred to in subsection (1)(c).

(5) A member of the Board referred to in subsection (1)(c) -

(a) holds office for a term of 3 years commencing on the date of the election; and

(b) in addition to the provisions of clause 9 (1) of Schedule 5 to the Government Business Enterprises Act 1995, vacates office if he or she ceases to be a commercial producer.

#### **- SECT 6 Elections of elected members**

6. (1) An election shall be held triennially for the purpose of electing members referred to in section 5(1)(c).

(2) An election shall be -

(a) held on such day as the Minister may appoint for the purpose; and

(b) conducted in the manner prescribed by the regulations by a returning officer appointed by the Minister.

(3) A returning officer appointed pursuant to subsection (2)(b) shall be paid such remuneration, expenses, and allowances as the Minister determines.

(4) A person is entitled to be -

(a) nominated as a candidate for an election; or

(b) elected at an election -only if that person has, for a period of at least 2 years before the day appointed for holding the election -

(c) been a commercial producer; or

(d) been -

(i) a director, secretary, or executive officer, within the meaning of the Companies (Tasmania) Code, of a commercial producer which is a body corporate; or

(ii) a person employed by any other commercial producer in a position certified, in writing, by that producer to be a senior position.

(5) A person is entitled to -

(a) nominate another person as a candidate for an election; or

(b) vote at an election -only if that first-mentioned person is a licensed producer.

(6) A vacancy in the office of an elected member that occurs more than 3 months before the next election is due to be held is to be filled by the election of a commercial producer under this section to the office of that elected member for the residue of that elected member's term of office.

(7) A vacancy in the office of an elected member that occurs not more than 3 months before an election is due to be held is not to be filled.

(8) An election of a person as a member is not invalid merely because of a defect or irregularity in relation to the election.

(9) In any proceedings by or against the Board, unless evidence is given to the contrary, proof is not required of the election of any of its elected members.

- SECT 7 Powers of Board

7. In addition to its powers under the Government Business Enterprises Act 1995, the Board has power to -

(a) sell, or arrange for the sale of, a commodity delivered or to be delivered to it; and

(b) provide a commodity for consumption in Tasmania; and

(c) provide for the supply of a commodity to any place in Tasmania where there is a shortage of that commodity; and

(d) make arrangements relating to the sale of a commodity for export or for consignment to another State, a Territory or another country; and

(e) buy a commodity; and

(f) with respect to the marketing of a commodity, enter into arrangements with -

- (i) a body or organisation in another State or a Territory which has the management or control of marketing the commodity in that State or Territory; or
- (ii) a body or organisation which deals in the commodity throughout the Commonwealth; and
- (g) encourage the consumption of a commodity; and
- (h) make contributions to bodies or organisations if the Board considers that it is in the interests of producers of a commodity to do so;

- SECT 8 Assistance

8. (1) In this section -"Agency" has the same meaning as in the Tasmanian State Service Act 1984;"Head of an Agency" has the same meaning as in the Tasmanian State Service Act 1984.

(2) The Board may arrange with the Head of an Agency for persons employed in that Agency to be made available to the Board to enable it to perform its functions under this or any other Act.

- SECT 9 Inspectors

9. (1) The Board may appoint employees and other persons to be inspectors.

(2) The Board must issue a certificate of authority to an inspector.

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**- Division 2 - Dissolution of the Board**

- SECT 18 Proceedings for dissolution of Board

18. (1) Where the Minister is satisfied, on representations made to him by licensed producers, that a substantial number of licensed producers desire that the Board be dissolved, the Minister may recommend to the Governor that a poll of licensed producers be taken as to whether the Board should be dissolved.

(2) When the Governor receives a recommendation under subsection (1), the Governor may, by order-in-council, direct that a poll of licensed producers be taken as to whether the Board should be dissolved.

(3) A poll under this section shall not be directed within 2 years after a poll at which the question of the dissolution of the Board has been decided in the negative.

(4) Where an order-in-council is made as provided by subsection (2), the Minister shall fix a day and place for the taking of the poll, and shall cause the order-in-council and a notice of the day and place for taking the poll to be published in the Gazette, and in such newspapers as the Minister may think fit.

(5) The day to be fixed by the Minister in accordance with subsection (4) shall not be less than 30 days after the publication in the Gazette of the notice referred to in that subsection.

(6) A licensed producer is entitled to vote at a poll taken under this section.

(7) If, at the taking of a poll under this section -

(a) the number of votes polled in favour of the dissolution of the Board exceeds three-fifths of the votes polled; and

(b) at least 70 per cent of the licensed producers have exercised their right to vote -the Governor may, by proclamation, declare that the Board shall be wound-up.

(8) Subject to subsection (9), where a proclamation is issued under subsection (7), the Board shall proceed to wind-up its affairs, and may to the extent necessary for the purpose of that winding-up, but not otherwise, exercise all or any of its powers and authorities under this Act.

(9) The Governor may, by order-in-council, appoint a person to be liquidator for the purpose of winding-up the affairs of the Board, at such remuneration (including the payment of expenses and allowances) as the Governor fixes, and a person so appointed as liquidator may, for that purpose, in the name and on behalf, and as the act, and, where necessary, under the seal, of the Board, bring and defend all such proceedings, and do and execute all such acts, matters, and things, as may be necessary for the purpose of winding-up the affairs of the Board.

(10) Where the Governor is of opinion that the affairs of the Board are wholly wound-up, he may, by proclamation, dissolve the Board.

(11) Where a proclamation is issued under subsection (10), all money and other assets held by the Board shall, after the payment of any debts owing by the Board in relation to all its proceedings, vest in the Crown and, in the case of assets in the form of real property, be realized by the Crown and that money and the proceeds of that realization shall be applied by the Crown in -

(a) programmes of research with respect to eggs and other commodities; and

(b) the promotion of the industries connected with those commodities.

### **- PART III - SCHEME FOR STABILIZATION**

#### ***- Division 1 - Prohibition on keeping hens without licence***

##### **- SECT 19 Prohibition on keeping hens without licence**

19. (1) Subject to this Division, a person shall not, after the commencement of this Act -

(a) keep any hens for the production of eggs for sale, unless he is the holder of a licence authorizing him to keep those hens; or

(b) cause or allow to be kept on any premises any hens for the production of eggs for sale, unless the person keeping those hens is the holder of a licence authorizing him to do so. Penalty: Fine not exceeding 15 penalty units, together with a fine not exceeding 5 penalty units for each day during which an offence committed under this subsection continues.

(2) In subsection (1), "eggs for sale" does not include fertile eggs for sale for hatchery purposes.

(3) For the purposes of subsection (1), the occupier of premises on which hens are found by an inspector shall, in the absence of evidence to the contrary, be deemed to be the keeper of those hens.

(4) This section applies only to a person who keeps, or causes or allows to be kept, more than 20 hens.

##### **- SECT 20 Exemption for certain institutions, &c.**

20. (1) The Minister may, by order, exempt an institution or organization carried on for any educational, charitable, or public purpose from the operation of section 19 for such period as is specified in the order.

(2) An order under this section may apply to an institution or organization specified in the order or to an institution or organization of a kind or class specified in, or determined in accordance with the provisions of, the order.

(3) Where, by an order under this section, an institution or organization is exempted from the operation of section 19 -

(a) that section does not, for such period as is specified in the order, apply to the keeping of hens by or on behalf of that institution or organization; and

(b) that institution or organization shall not, during that period, sell or otherwise dispose of the eggs produced by the hens kept by it or on its behalf but shall use them solely for the purposes of that institution or organization. Penalty: Fine not exceeding 5 penalty units.

**- Division 2 - Granting of licences and other matters relating to licences: Temporary licences**

- SECT 21 Power of Board to grant licences

21. (1) The Board may, in accordance with this Division, grant licences for the purposes of this Act.

(2) A licence may be granted to a natural person, to 2 or more natural persons jointly, or to a body corporate.

(3) The Board shall not grant a licence to a person if that person already holds a licence.

- SECT 22 Applications for licences

SECT. 22. An application for a licence shall be in writing in a form approved by the Board and shall be signed -

(a) where the application is made by a body corporate, by a person who is the manager or secretary of, or holds a similar office in, the body corporate; or

(b) where the application is made by any other person or persons, by that person or those persons.

- SECT 23 Granting of licences, &c.

23. (1) On receipt of an application for a licence, the Board may, subject to subsection (3), grant or refuse to grant the licence.

(2) A licence authorizes its holder to keep hens to and including a number not exceeding the adjusted hen quota for the time being fixed for that licence.

(3) Where the Board grants or refuses to grant a licence, the Board shall, by notice in writing served on the applicant, inform the applicant of the grant or refusal.

- SECT 24 Provision relating to licences held by 2 or more natural persons and by bodies corporate

24. Where a licence is granted or transferred -

(a) to 2 or more natural persons, those persons are severally liable as the holder of a licence; or

(b) to a body corporate -

(i) the body corporate may, with the consent of the Board, nominate a person approved by the Board to be responsible as the holder of the licence on behalf of the body corporate and a person so nominated and approved is liable under this Act as the holder of the licence; or

(ii) where the body corporate has not so nominated a person or where a person so nominated has resigned or been dismissed, the body corporate is liable under this Act as the holder of the licence until such time as a person or another person, as the case may be, is nominated and is approved by the Board.

- SECT 25 Surrender of licences

25. (1) A licensed producer may, by notice in writing given to the Board and accompanied by his licence, surrender the licence.

(2) The Board shall, on receipt of a licence surrendered pursuant to subsection (1), cancel the licence.

- SECT 26 Transfer of licences, &c.

26. (1) Where the hens kept in pursuance of a licence held by a licensed producer are kept on any premises, the Board shall -

(a) on being satisfied that the licensed producer will cease to keep hens on those premises but some other person will continue to keep hens on those premises;

(b) on the application of the licensed producer; and

(c) if any money owing to the Board by the licensed producer has been paid -transfer the licence to that other person.

(2) Subject to subsection (3), the Board may, by agreement with a licensed producer and any other person or persons, cancel the licence held by the licensed producer and grant in its place a licence or licences to that other person or those other persons.

(3) The Board may refuse to enter into an agreement under subsection (2) with a licensed producer and any other person or persons if the licensed producer owes any money to the Board.

- SECT 27 Death of licensed producer

27. (1) Where a licensed producer dies, his legal personal representative becomes the holder of the licence held by him.

(2) When a licensed producer who holds his licence jointly with another person dies, his legal personal representative becomes the holder of the licence jointly with that other person.

- SECT 28 Cancellation of licences

28. (1) The Board may cancel a licence if -

(a) the number of hens that are kept by the licensed producer who holds the licence exceeds the hen quota for the licence; or

(b) the licensed producer or one of the holders of the licence has been convicted of an offence against this Act.

(2) The Board shall not cancel a licence under this section unless, at least 30 days before so doing, it has served notice in writing on the licensed producer who holds the licence stating its intention to do so and specifying the grounds on which it is intended to cancel the licence.

(3) Where a licence has been cancelled under this section, the Minister may grant another licence to the person who held the first-mentioned licence.

(4) A licence granted under subsection (3) is subject to such terms and conditions as the Minister may determine and as may be specified in the licence.

(5) Where the holder of a licence granted under subsection (3) contravenes or fails to comply with a term or condition to which the licence is subject, the holder is guilty of an offence and is liable on summary conviction to a penalty not exceeding 5 penalty units.

- SECT 29 Appeals against cancellation of licences

29. (1) Where a licence is cancelled under section 28, the person who was the licenced producer who held that licence may, within the prescribed time and in the prescribed manner, appeal to the Minister against the cancellation.

(2) Where an appeal is made to the Minister under subsection (1), he may, after giving the appellant such opportunity as the Minister considers reasonable to make representations in relation to the matter, make a decision dismissing the appeal or quashing the cancellation of the licence.

(3) The decision of the Minister on an appeal under subsection (1) is final.

(4) The cancellation of a licence under section 28 is of no effect, if an appeal against the cancellation is brought under subsection (1), until the appeal is finally disposed of, or, if an appeal is not so brought, until the time limited for the bringing of such an appeal has expired.

- SECT 30 Temporary licences

30. (1) The Board may, on application in writing, grant to a person a temporary licence authorizing that person to keep not more than 200 hens for the production of eggs for sale to provide funds for educational, charitable, or public purposes or for the preservation of genetic material.

(2) A temporary licence -

(a) continues in force for such period as is specified in the licence;

(b) is subject to such terms and conditions as the Board may determine and as may be specified in the licence; and

(c) is not transferable.

(3) Where the holder of a temporary licence contravenes or fails to comply with a term or condition to which the licence is subject, the holder is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

**- Division 3 - Base quotas for licences**

- SECT 31 Fixing of base quotas

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31. There shall be a base quota fixed for each licence in accordance with this Division.

- SECT 32 Base quotas for licences granted on transfer

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32.

(1) The base quota for a licence granted under section 26(2) shall be fixed by the Board at the number specified in the agreement referred to in that subsection.

(2) Notwithstanding anything in subsection (1), the aggregate of the base quotas for licences granted in consequence of the cancellation of a licence shall not exceed the base quota for that licence.

- SECT 33 Base quotas for other licences

33. (1) The base quota for a licence, other than a licence to which section 32 applies, shall be fixed by the Board in accordance with such directions as may be given to it by the Minister, either generally or in a particular case.

(2) No base quota shall be fixed under this section that would have the effect of increasing the aggregate of all the base quotas to a number greater than the State Hen Quota for the time being.

- SECT 34 Increase of base quotas

34. (1) The Board may, on the application of a licensed producer, increase the base quota for his licence.

(2) A base quota shall not be increased under this section so as to have the effect of increasing the aggregate of all the base quotas to a number greater than the State Hen Quota for the time being.

- SECT 35 Reduction of base quotas

35. The Board may, by agreement with a licensed producer, reduce the base quota for his licence.

- SECT 36 Notification of base quotas

36. Where the Board fixes a base quota for a licence held by a licensed producer or increases or reduces the base quota for a licence, it shall cause to be served on the licensed producer notice of the base quota as so fixed or as so increased or reduced, as the case may be.

***- Division 4 - State Hen Quota and adjusted hen quotas***

- SECT 37 State Hen Quota

37. (1) The State Hen Quota is the total of the base quotas for all licences.

(2) The Board shall, from time to time, adjust the State Hen Quota where the Board considers that it is necessary to do so for the purpose of balancing the supply of eggs with the demand for eggs.

(3) The Board shall, as soon as practicable after adjusting the State Hen Quota pursuant to subsection (2), cause notice of the adjusted State Hen Quota to be served on each licensed producer.

(4) The State Hen Quota, when adjusted pursuant to subsection (2), is the total of the adjusted hen quotas for all licences.

(5) The adjusted hen quota for a licence shall bear the same proportion to the base quota for the licence as, subject to subsection (7)(a), the relevant adjusted State Hen Quota, as adjusted pursuant to subsection (2), bears to the State Hen Quota.

(6) Except as provided in subsection (7), the Board may, from time to time, amend the adjusted hen quota for a licence to allow for fluctuations in the supply of, and demand for, eggs.

(7) Notwithstanding subsection (6) -

(a) an adjusted hen quota for a licence that does not exceed 1 000 may not be amended under that subsection; and

(b) an adjusted hen quota for a licence may not be amended under that subsection so that the hen quota resulting from the amendment is less than 1 000,

(8) A licensed producer who, after the commencement of this Act, keeps any number of hens, being hens kept for the production of eggs for sale in excess of the adjusted hen quota for the time being fixed for the licence held by him, is guilty of an offence. Penalty: Fine not exceeding 15 penalty units, together with a fine not exceeding 5 penalty units for each day during which the offence continues.

#### **- Division 4 - Miscellaneous**

- SECT 38 Returns by persons to whom section 19 applies

38.

(1) A person to whom section 19 applies who keeps, or causes or allows to be kept, hens for the production of eggs for sale shall furnish the Board with a return specifying the number of hens, as at the 1st and 15th days of each month, that he keeps or causes or allows to be kept.

(2) A return referred to in subsection (1) shall be in a form approved by the Board and shall be furnished to the Board not later than 14 days after the days specified in that subsection.

(3) A person who fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

#### **- PART IV - VESTING OF COMMODITIES**

- SECT 39 Power to proclaim vesting of commodities in Board

39. (1) The Governor may, on the recommendation of the Board -

(a) by proclamation, declare that a commodity produced for sale shall forthwith on the date of publication of the proclamation, or on and from a later date specified in it, be divested from the producers of the commodity and become vested in and be the absolute property of the Board as its owner, and that, on such a commodity produced for sale coming into existence within a time specified in the same or a subsequent proclamation, it shall, by virtue of this Act, become vested in and be the absolute property of the Board as its owner; and

(b) make regulations containing such provisions as will enable the Board to deal with the commodity in such manner as is necessary or expedient in order to give full effect to the objects and purposes for which the Board is established.

(2) On the date of publication of a proclamation under subsection (1) or on such later date as is specified in it, as the case may be -

(a) the commodity to which the proclamation relates becomes the absolute property of the Board freed and discharged from all mortgages, charges, liens, pledges, interests, trust, contracts, and encumbrances affecting the commodity; and

(b) the rights and interests of every person in or to the commodity are thereupon converted into a claim for payment in accordance with this Act.

- SECT 40 Commodity to be delivered to Board: Prohibition of sale, &c.

40. (1) Where a commodity produced for sale has been vested in the Board pursuant to a proclamation under section 39(1) -

(a) except in the case of a producer who has been exempted from the operation of this section and is the holder of a certificate of exemption under paragraph (c), all the commodity so vested shall be delivered by the producers of the commodity to the Board or one of its authorized agents within such times, at such places, and in such manner, as the Board by public notice, or in a particular case in writing, directs, or as are prescribed;

(b) a producer who, not being a producer who has been exempted from the operation of this section and is the holder of a certificate of exemption under paragraph (c), sells or delivers any of the commodity so vested in the Board to a person other than the Board, and a person, other than the Board, who, except as prescribed, buys or receives any of that commodity from a producer is, except as provided in subsection (2), guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units;

(c) on written application being made to the Board by a producer, the Board may -

(i) exempt that producer from the operation of this section, in respect of all or any sales and deliveries of the commodity, subject to terms and conditions as are agreed on between the producer and the Board; and

(ii) grant to that producer a certificate of exemption accordingly;

(d) the Board may at any time, by notification published in the Gazette, or by written notice to the exempted producer signed by the general manager or other person authorized by the Board, revoke an exemption granted in pursuance of paragraph (c);

(e) such of the commodity which has become vested in the Board as -

(i) the Board refuses to accept after tender of delivery to it in accordance with this Act; or

(ii) is subject to an exemption in accordance with this section -shall, on such a refusal or on its becoming so exempted, revert in the persons who would have held it had the commodity not been vested in the Board, but subject to all mortgages, charges, liens, pledges, interests, trusts, contracts, and encumbrances, which would have affected it had the commodity not been so vested;

(f) where, pursuant to paragraph (c), a producer is exempted from the operation of this section, that producer is guilty of an offence against this Act and is liable on summary conviction to a fine not exceeding 5 penalty units if he contravenes or fails to comply with a term or condition subject to which the exemption is given;

(g) if a producer is convicted of an offence against this Act by reason of his contravention or failure to comply with any of the terms and conditions subject to which he is granted an exemption pursuant to paragraph (c), the court before which he is convicted may, in addition to imposing a penalty in respect of the offence, order the producer to pay to the Board such sum of money as, in the opinion of the court, would

have been payable by the producer to the Board if he had in all respects complied with those terms and conditions; and

(h) the Board may deduct from any money due and payable by the Board to a producer in pursuance of this Act in respect of any of the commodity delivered to the Board by him any sum of money that is payable by him to the Board as a condition of an exemption granted to him pursuant to paragraph (c).

(2) Subsection (1)(b) does not apply to the sale, delivery, purchase, or receipt of any of a commodity vested in the Board as has been tendered to the Board in conformity with this Act and the acceptance of which has been refused by the Board on the ground that the commodity is below the prescribed quality, and in respect of which a certificate of refusal has been granted by the Board to the producer.

- SECT 41 Powers of inspectors in relation to vested commodities

41. (1) Where the producer of a commodity vested in the Board by a proclamation under section 39(1) fails to deliver to the Board or one of its authorized agents that commodity within such times, at such places, and in such manner as the Board directs, or as is prescribed, an inspector may, at any reasonable time, enter and remain in any premises at which, or at which he reasonably suspects, that product is being produced, stored, or sold, and may take possession of that product and the relevant packaging material.

(2) Where a commodity vested in the Board as mentioned in subsection (1) consists of eggs, that subsection does not apply to eggs that are the product of not more than 20 hens.

(3) Where at any premises referred to in subsection (1), an inspector is about to exercise, or is in the course of exercising, a power conferred on him by that subsection and a person apparently in charge of those premises requests him to produce evidence that he is an inspector, it is not lawful for him to exercise or, as the case may be, continue to exercise, that power unless he produces that evidence to that person.

(4) A person who -

(a) prevents or attempts to prevent an inspector from exercising a power conferred on him by subsection (1); or

(b) obstructs or hinders an inspector in the exercise of any such power -is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

- SECT 42 Tender to be evidence of intention to deliver

42. The tendering of a commodity by a person (whether by himself, or by any other person authorized by him), to an authorized agent for acceptance of delivery by him, is prima facie evidence of an intention to deliver the tendered commodity to the Board, to be disposed of by the Board in accordance with this Act.

- SECT 43 Issue of certificates

43. As soon as practicable after the delivery of a commodity to the Board, the Board shall grant to the producer of the commodity, or other person by or for whom the commodity was delivered to the Board, a certificate in respect of that commodity in a form approved by the Board.

- SECT 44 Acceptance by Board, &c.

44. (1) The Board shall not refuse to accept delivery from any person of any of a commodity vested in the Board which is of the prescribed quality if the commodity is delivered within such reasonable times as are fixed by the Board.

(2) When any commodity is refused by the Board on the ground that it is below the prescribed quality, the Board shall grant to the producer of the commodity a certificate of its refusal in a form approved by the Board.

- SECT 45 Payment to producers

45.

(1) The Board shall make payments to the persons by or for whom a commodity was delivered to the Board under this Act on the basis of the net proceeds of the sale of all the commodity of the same quality, standard, variety, or grade, or of the value of the equivalent processed commodity or on such other basis as the Board may determine, but the Board may, in determining the amount of any such payment, take into account any other circumstances which it considers relevant.

(2) The Board may deduct from the proceeds of the sale of a commodity, or, as the case may be, from any progress or final payments made by the Board in relation to the sale of that commodity -

(a) the expenditure incurred, or estimated to be incurred in, or in connection with, the marketing, treatment, processing, or manufacture, where applicable, of the commodity;

(b) the costs and expenses, or estimated costs and expenses, of the administration by the Board of this Act.

- SECT 46 Eggs obtained from persons other than licensed producers to be graded before sale

46. A person shall not sell any eggs that have been obtained from a person other than a licensed producer unless those eggs, before they are sold, have been graded in accordance with the regulations by the Board or a person authorized by the Board and have been found by the Board or that person not to be below the prescribed quality. Penalty: Fine not exceeding 5 penalty units.

- SECT 47 Non-liability of Board or liquidator for payment in good faith

47. Where the Board, or a liquidator appointed by order-in-council under section 18(9) to wind-up the affairs of the Board, has, in good faith and without negligence, made payment to, or to the order of -

(a) a producer or other person delivering or causing to be delivered to the Board, or to any person acting under the authority of the Board, any of a commodity vested in the Board by proclamation under section 39(1); or

(b) a person entitled, or claiming to be entitled, to such a payment through the producer, or through any other person delivering such a commodity to the Board or causing it to be so delivered - the Board or liquidator is not answerable to any other person in respect of the payment or of the commodity in respect of which the payment was made.

**- PART V - MISCELLANEOUS**

- SECT 48 Power to inspect and take samples, &c.

48. (1) An inspector may, at any reasonable time, for the purposes of the administration of this Act -

(a) enter and remain in any premises where a commodity is believed to be produced, stored, or sold, or where there is reasonable grounds for believing that fowls are kept;

(b) inspect and take samples of any commodity and related packaging materials;

(c) inspect and take copies of, or extracts from, any records relating to any commodity; and

(d) make such inquiries as he thinks necessary relating to any commodity or fowls.

(2) Where at any premises referred to in subsection (1), an inspector is about to exercise, or is in the course of exercising, a power conferred on him by that subsection and a person apparently in charge of those premises requests him to produce evidence that he is an inspector, it is not lawful for him to exercise or, as the case may be, continue to exercise, that power unless he produces that evidence to that person.

(3) A person who -

(a) prevents or attempts to prevent an inspector from exercising a power conferred on him by subsection (1);

(b) obstructs or hinders an inspector in the exercise of his powers under that subsection;

(c) fails or refuses to produce a record or to answer an inquiry under that subsection as to any matters within his knowledge; or

(d) gives an answer to an inquiry under that subsection that is false or misleading in a material particular -is guilty of an offence and is liable to a fine not exceeding 5 penalty units.

- SECT 49 Offences by bodies corporate

49. Where an offence under this Act has been committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director of, or other person concerned in the management of, the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence and is liable to a penalty not exceeding that prescribed for the offence unless he proves that he could not by the exercise of reasonable diligence have prevented the commission of the offence.

- SECT 50

50. . . . .

- SECT 51 Prosecution for offences under Act

51. A prosecution for an offence under this Act may be instituted by a person authorized in writing for that purpose by the Minister, either generally or in a particular case or class of cases.

- SECT 52 Evidence

52. A certificate purporting to be a certificate by the chief executive officer within the meaning of the Government Business Enterprises Act 1995 certifying -

(a) that a person is or was at the time mentioned in the certificate an inspector or an authorized agent;

(b) that a person was or was not at the time mentioned in the certificate a licensed producer, commercial producer, or a producer of a commodity;

(c) that a person was or was not at the time mentioned in the certificate the holder of a temporary licence;

(d) that any provision set out in the certificate was or was not at the time mentioned in the certificate a term or condition of a temporary licence;

(e) that anything was or was not at the time mentioned in the certificate a commodity or a commodity vested in the Board by a proclamation under section 39(1); or

(f) that a number specified in the certificate was, on the date specified in the certificate, the base quota or the adjusted hen quota for a licence or the State Hen Quota or the adjusted State Hen Quota -is admissible in any proceedings under this Act and shall, until the contrary is established, be evidence of the matters so certified.

- SECT 53

53. . . . .

- SECT 54 Regulations

54. (1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the Governor may make regulations for or in respect of the following matters:

(a) the method of nomination of candidates for elections;

(b) the conduct of elections;

(c) the conduct of a poll referred to in section 18(1), including the appointment of a returning officer for the poll and provision for the remuneration, expenses, and allowances payable to him;

(d) the manner in which an application for a licence is made under this Act;

(e) the records that are required to be kept with respect to the keeping of fowls;

(f) the returns or notifications that are required to be made with respect to the keeping of fowls;

(g) the method of ascertaining whether or not a commodity is of the prescribed quality, a standard of quality for a commodity, and an increase or decrease in the amount otherwise payable to a producer or any other person for any of a commodity delivered by him to the Board, according to its quality, whether at the time of that delivery or subsequently.

(3) Regulations made under this section may be made subject to such conditions, or be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstances or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide in respect of any such offence for the imposition of a fine not exceeding 5 penalty units.

- SECT 55

55. . . . .

- SECT 56

56. . . . .

- SCHEDULE 1

SCHEDULE 1

- SCHEDULE 2

SCHEDULE 2

- SCHEDULE 3

SCHEDULE 3