

APPLE AND PEAR MARKETING.

No. 68 of 1948.

AN ACT to make provision for the marketing of Apples and Pears harvested during the year 1949, and for matters incidental thereto.

[15 December, 1948.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Apple and Pear Marketing Act* 1948.

Short title and commencement.

(2) Sections one, two, and six of this Act shall commence on the date on which the Governor gives his assent to this Act, and the remaining sections of this Act shall commence on a date to be fixed by proclamation.

(3) No proclamation shall be made under subsection (2) unless and until the Governor is satisfied that agreements have been entered into under section six in respect of not less than eighty per cent of the estimated total crop of apples and pears for the year 1949.

2 In this Act unless the contrary intention appears—

Interpretation.
Cf. Commonwealth S.R. 1939, No. 148, r. 3.

“Board” means the Australian Apple and Pear Marketing Board constituted under the Commonwealth Regulations;

“Committee” means the State Committee constituted for this State under the Commonwealth Regulations;

“Commonwealth Regulations” means the National Security (Apple and Pear Acquisition) Regulations of the Commonwealth;

“cool store” means any place in which the temperature can be regulated or reduced below normal by artificial means;

“grower” means the occupier of an orchard of which not less than one acre is wholly or principally used for the growing of apples or pears or both.

3 This Act shall apply only to apples and pears the growers of which have entered into agreements with the Minister in accordance with section six.

Application of Act.

**Functions of
Committee.**

4 The Committee shall advise the Minister and the Board with respect to all matters arising under this Act in relation to the marketing of apples and pears which are referred to it by the Minister or the Board for consideration and report.

**Powers and
functions of
the Board.**

5 For the purposes of this Act the Board may as agent for, and subject to the directions of, the Minister—

Ibid., rr. 7,
8, 23.

- (a) purchase apples and pears to which this Act applies;
- (b) sell, exchange, dispose of, or otherwise deal in, apples and pears to which this Act applies;
- (c) manage and control all matters connected with the handling, storage, protection, processing, treatment, transfer or shipment of apples and pears to which this Act applies;
- (d) inspect, or arrange for the inspection of, any apples or pears to which this Act applies, or any orchard used for the growing of any such apples or pears;
- (e) determine the cases in which, and the conditions under which, apples and pears to which this Act applies may be placed or kept in any cool store;
- (f) do all things necessary to encourage and extend the use of apples for canning, dehydration, juice production, and other manufacturing and processing purposes; and
- (g) do all such acts, matters, and things as may be necessary or convenient for the purpose of securing the orderly marketing of apples and pears to which this Act applies, or for carrying out or giving effect to the provisions of this Act, or of any agreement entered into by the Minister under section six of this Act.

**Power of
Minister to
enter into
agreements
with growers.**

6—(1) The Minister may enter into an agreement with the grower of any apples or pears for the delivery, in accordance with subsection (1) of section seven of all or any apples or pears harvested by such grower during the year 1949.

(2) An agreement under this section may provide for the making of an advance by the Board, on behalf of and as agent for, the Minister, to the grower of the apples or pears to which the agreement relates, upon and subject to such terms and conditions as may be specified in the agreement.

(3) The terms and conditions upon and subject to which any advance may be made under any such agreement shall be the same, as far as is practicable, as the terms and conditions upon which advances were made under the Commonwealth Regulations during the season last preceding the commencement of this Act in respect of apples and pears of the same variety, grade, or class as the apples or pears to which the agreement relates.

(4) An agreement under this section shall not be a contract or agreement for or on account of the public service for the purposes of section thirty-three of the *Constitution Act 1934**.

7—(1) Any person having in his possession or under his control or at his disposal any apples or pears to which this Act applies shall, on receipt of a notice in writing from the Board, or any person authorised by the Board to give notices under this section, directing him so to do, cause those apples or pears to be delivered to the Board, or to any packing-shed, cool stores, or place specified in that behalf in the notice.

Delivery of
apples and
pears to the
Board, &c.

(2) A direction under this section may be given—

- (a) by notice in writing served personally on the person to whom it is addressed, or served on that person by post at his usual or last known place of abode; or
- (b) by notice published in the *Gazette*, in which case it may be addressed to persons generally or to the persons included in any class of persons specified in the notice.

(3) Upon the delivery of any apples or pears in pursuance of a notice under subsection (1), such apples or pears shall, by force of this section, be vested in and become the absolute property of the Minister, freed and discharged from all mortgages, charges, liens, pledges, interests, and trusts affecting those apples or pears, and the rights and interests of every person in or to those apples or pears (including any rights or interests arising in relation to any moneys advanced in respect of those apples and pears) shall be converted into claims for compensation.

(4) Claims for compensation shall be made, in writing, as prescribed.

(5) The amount of compensation payable to any person under this section shall be such amount as the Minister, on the recommendation of the Board, determines, and the determination of the Minister shall be final and without appeal.

(6) It shall not be necessary for the Minister to make any determination under subsection (5) until he is satisfied that, after making provision for payment of all advances payable in pursuance of agreements entered into under section six and of all costs and expenses (including administrative expenses) incurred or to be incurred by the Board in and in connection with the marketing of apples and pears to which this Act applies, the operations of the Board under this Act have resulted in an excess of receipts over expenditure.

* 25 Geo. V. No. 94. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 850. Subsequently amended by 1 Edw. VIII. & 1 Geo. VI. No. 61, 5 Geo. VI. No. 66, 7 & 8 Geo. VI. No. 74, and 9 & 10 Geo. VI. No. 48.

(7) Upon the determination by the Minister of the amount of compensation payable to any person under this section, the Board, shall, on behalf of, and as agent for, the Minister, pay such amount out of the moneys available to the Board for that purpose under this Act.

Apples and pears not to be delivered except as provided.
Ibid., r. 15.

8—(1) Except as provided by this Act or with the consent of the Board no person shall—

- (a) part with the possession or custody of, or move, any apples or pears to which this Act applies which are in his possession or under his control or at his disposal;
- (b) take into his possession or custody any apples or pears to which this Act applies; or
- (c) sell or offer for sale, or buy or offer to buy, any apples or pears to which this Act applies.

(2) Nothing in subsection (1) shall apply to or in respect of any apples or pears which have been sold or disposed of by the Board.

Financial provisions.

9—(1) For the purposes of this Act the Treasurer may borrow any sums of money, not exceeding in the whole the sum of £3,000,000, and may advance to the Board, upon such terms and conditions as to the repayment thereof as the Treasurer may determine, any moneys so borrowed.

(2) In lieu of borrowing and advancing moneys to the Board in pursuance of subsection (1), the Treasurer may recommend to the Governor that the Governor arrange with the Commonwealth Bank of Australia for the making by that Bank to the Board of advances of any sums of money, not exceeding in the whole the sum of £3,000,000, which may be required by the Board for the purposes of this Act, and in such case, the Governor may, on such terms and conditions as he considers necessary, guarantee the repayment by the Board of any moneys so advanced or of any part thereof and the payment of the whole or any part of the interest payable by the Board in respect thereof.

Arrangement with Commonwealth.

10 The Governor may enter into an arrangement with the Governor-General of the Commonwealth providing for the repayment to the State by the Commonwealth of all moneys which the State may be required to expend in making advances to the Board under section nine or in pursuance of any guarantee given by the Governor under that section.

Offences.

11—(1) Any person who contravenes or fails to comply with any provision of this Act, or any direction given by the Board under this Act, which is applicable to him, shall be guilty of an offence against this Act.

(2) Any person who is guilty of an offence against this Act shall be liable to a penalty of one hundred pounds or six months' imprisonment or both.

12 The Governor may make regulations prescribing such matters as may be necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act. Regulations.

WHEAT INDUSTRY STABILIZATION.

No. 69 of 1948.

AN ACT relating to the Stabilization of the Wheat Industry and matters incidental thereto.
[15 December, 1948.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Wheat Industry Stabilization Act 1948*. Short title, commencement, and repeal.

(2) Subject to subsection (3), this Act shall be deemed to have commenced on the day on which the Commonwealth Act received the Royal Assent.

(3) Any act or omission which occurred before the date on which the Governor gave his assent to this Act shall not be deemed to constitute an offence against this Act.

(4) The *Wheat Industry Stabilization Act 1946** is repealed.

2 In this Act, unless the contrary intention appears—

“licensed receiver” means a person licensed by the Board to receive wheat on behalf of the Board; Definitions.
Cf. 10 Geo. VI. No. 22, s. 2.