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**HERD IMPROVEMENT ACT 1977**

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**HERD IMPROVEMENT**

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**No. 4 of 1977**

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**AN ACT to make provision with respect to the control and regulation of herd improvement, to constitute a herd improvement organization in Tasmania and regulate its functions, and to provide for matters incidental thereto.**

**[28 April 1977]**

**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 *Herd Improvement Act* Short title and commencement. 1977.

(2) This Act shall commence on a day to be proclaimed.

Repeal and  
saving;  
application of  
*Stock Act 1932*.

**2**—(1) The Acts that are specified in the Schedule are repealed.

(2) Notwithstanding the repeals effected by subsection (1), from the commencement of this Act—

- (a) officers and employees of the former board shall be deemed to have been appointed as officers or employees, as the case requires, of the Board and to have been such officers or employees of the Board from the time they were appointed to the former board on the same terms and conditions on which, immediately prior to the commencement of this Act, they were employed by the former board;
- (b) the former board shall cease to exist and all property, rights, assets, liabilities, and obligations of the former board shall be transferred to, and shall vest in, the Board;
- (c) the burden and benefit of all contracts and agreements entered into by the former board before the commencement of this Act, so far as they are in existence, shall be transferred to the Board and may be enforced by or against the Board accordingly as if the Board had been specifically named therein as a party thereto in lieu of the former board; and
- (d) if any legal proceedings have been commenced by or against the former board or any member thereof, in his capacity as such a member, before such commencement of this Act those proceedings may be continued by or against the Board, and any costs or damages (or both) that could have been awarded in favour of or against the former board or that member may be awarded in favour of or against the Board and are recoverable accordingly.

(3) In this section, “former board” means the Artificial Breeding Board constituted under the *Artificial Breeding Act 1964*.

(4) Notwithstanding anything in this Act, the provisions of the *Stock Act 1932* apply to the regulation of artificial breeding in this State.

Interpretation.

**3** In this Act, unless the contrary intention appears—

“Board” means the Herd Improvement Board of Tasmania constituted under this Act;

“industrial award” means—

- (a) any award made by the Public Service Board in pursuance of the *Public Service Act 1973*;

- (b) a determination made under the *Industrial Relations Act 1975*; or
- (c) an award or order under the *Conciliation and Arbitration Act 1904-1976* of the Commonwealth or an agreement under that Act having the force of an award or order;

“owner”, used in relation to stock, includes any number of joint owners;

“semen” includes ova;

“stock” means stock within the meaning of the *Stock Act 1932*.

**4**—(1) There shall be a board to be known as the Herd Improvement Board of Tasmania. The Herd Improvement Board of Tasmania.

(2) The Board shall be a body corporate having perpetual succession and a common seal.

(3) The seal of the Board shall not be affixed to any document except in pursuance of a resolution of the Board, and every sealing shall be authenticated by the signatures of two or more members of the Board.

**5**—(1) The Board shall consist of 8 members appointed by the Minister of whom— Constitution of the Board.

- (a) two shall be government members; and
- (b) six shall be representative members.

(2) Of the government members—

- (a) one shall hold office in the Public Service of the State; and
- (b) one shall be a person who appears to the Minister to have had wide experience and to have shown capacity in financial matters.

(3) Of the representative members—

- (a) three shall be persons appointed to represent the Tasmanian Farmers' Federation;
- (b) one shall be a person appointed to represent the Tasmanian Farmers', Stockowners', and Orchardists' Association;
- (c) one shall be a person appointed to represent the United Stud Beef Breeders Association; and
- (d) one shall be a person appointed to represent the Registered Dairy Cattle Association of Australia (Tasmanian Branch).

(4) A representative member shall be appointed from persons nominated in the prescribed manner for such appointment.

(5) Of the two government members of the Board, one shall be appointed by the Minister to be the chairman of the Board and the other shall be the deputy chairman of the Board who, in the absence of the chairman shall, notwithstanding subsection (8), act as the chairman of the Board at any meeting from which the chairman is absent.

(6) The Minister may appoint a deputy of any government member of the Board.

(7) The Minister may, on the nomination of any organization referred to in subsection (3), appoint a deputy of the member appointed to represent the organization.

(8) A person who is appointed as the deputy of a member may act as a member of the Board during the illness, absence, or inability to act of the member for whom he is appointed deputy, and while so acting has all the powers and may perform all the functions of the member for whom he is appointed deputy.

(9) Subject to this section, the government members of the Board shall hold and vacate office under the terms of the instrument under which they are appointed and the other members of the Board shall hold office for a term of 3 years.

(10) The office of a member of the Board becomes vacant if he dies or if—

(a) being a government member, he ceases to be qualified to hold office, or otherwise ceases to hold office as such;

(b) he resigns his office by writing under his hand addressed to the Minister; or

(c) he is removed from office pursuant to section 6.

(11) If a member of the Board is removed from office or dies or otherwise vacates his office, the Minister may appoint a person to fill the office and the person so appointed, if a representative member, shall be so appointed for the remainder of the term for which the vacating member was appointed.

(12) If a proposed appointment under subsection (11) is for the purpose of filling a vacancy left by a representative member, the Minister shall not make an appointment under that subsection except on the nomination, in the prescribed manner, of the organization that nominated the vacating member.

**6** The Minister may remove from office any of the representative members of the Board if— Removal from membership of Board.

- (a) the organization that the member was appointed to represent requests the Minister to do so;
- (b) the member becomes, in the opinion of the Minister, incapable, by reason of any physical or mental disability, of properly performing his duties as a member;
- (c) the member has been convicted of an offence of such a nature that, in the opinion of the Minister, it is not proper that he should be permitted to continue in office as a member;
- (d) except on leave granted by the Minister, the member absents himself from 3 or more consecutive meetings of the Board;
- (e) the member has misconducted himself in the performance of the duties of his office; or
- (f) the member applies to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors.

**7** Five members shall constitute a quorum of the Board. Quorum.

**8**—(1) The chairman of the Board shall preside at all meetings of the Board at which he is present. Proceedings of the Board.

(2) If the chairman is absent from a meeting of the Board, the deputy chairman of the Board shall preside at that meeting.

(3) If both the chairman and the deputy chairman and their deputies (if any) are absent from a meeting of the Board, the members present shall choose one of their number to preside at that meeting.

(4) The chairman or other person presiding at a meeting of the Board has a deliberative vote only.

(5) Questions arising at meetings of the Board shall be determined by a majority of the votes of the members present and voting thereon, and in the event of an equality of votes the question shall be deemed to be resolved in the negative.

(6) Subject to this section and the regulations, the Board may regulate its own procedure.

Remuneration  
of members of  
the Board.

**9**—(1) The members of the Board shall be paid such fees and allowances, if any, as the Governor may determine.

(2) The Governor shall not determine the fees and allowances to be paid to a government member of the Board who holds office in the Public Service of the State except on the recommendation of the Public Service Board.

Functions of  
the Board.  
Cf. No. 16 of  
1964, s. 5.

**10**—(1) Subject to this Act, the Board—

- (a) may establish, maintain, and carry on in such places as it thinks desirable such facilities as are necessary for herd improvement including—
  - (i) offices for general administration and accounting;
  - (ii) centres for the collection and storage of semen for use in the artificial breeding of stock; and
  - (iii) facilities for the recording of production of stock;
- (b) may supplement supplies of semen produced at the Board's centres with supplies of semen purchased by the Board from other persons (whether in this State or elsewhere);
- (c) may establish such centres in this State as the Board thinks desirable, at such places as it thinks fit, for the sale and distribution of semen by the Board and may sell and distribute semen at and from those centres;
- (d) may establish and maintain field services to provide for the artificial breeding of stock and recording the production of stock;
- (e) may conduct such experiments, and do all such other acts and things, as the Board thinks desirable for the purpose of securing improvements in the techniques employed, and operations carried out, in relation to the artificial breeding and production recording of stock;
- (f) may promote herd improvement of stock including the practice of artificial breeding and production recording in all places where, in the Board's opinion, it may effectively be used;
- (g) may purchase, take on lease, hold, mortgage, and dispose of real property;
- (h) may purchase or otherwise acquire, take on hire, hold, mortgage, charge, and dispose of personal property;



- (i) may enter into such contracts, agreements, and arrangements as it thinks necessary for the proper performance of the functions, powers, and duties of the Board under this Act;
- (j) may contribute towards any expenditure incurred, with the Board's approval, by any person in providing services for or in connection with the artificial breeding and production recording of stock or in the conduct of research or experiment in matters affecting or relating to the artificial breeding and production recording of stock or the fertility of stock, or make loans on such terms as it thinks fit to any such person; and
- (k) generally, may exercise such functions and powers as are conferred on it, and shall perform such duties as are imposed on it, by or under this Act.

(2) The Board, in the exercise of its powers and functions under this Act shall not, unless it has reasonable grounds for so doing, refuse, on the request and at the cost of the owner of any stock, to procure semen for the owner from a place outside this State specified by the owner and use it for the purpose of artificially inseminating any of his stock.

**11—(1)** The Board may, for the purposes of this Act—

Staff.  
Ibid., s. 7.

- (a) appoint and employ such officers and employees (whether permanent, temporary, or casual) as it thinks fit; or
- (b) with the consent of the Minister administering any department of the Public Service, make use of the services of any officer or temporary employee of the Public Service employed in that department.

(2) Subject to this section and to any industrial award that may be applicable to all or any of them, the officers and employees of the Board shall be paid such remuneration, and shall be employed upon and subject to such terms and conditions of employment, as the Board may determine.

(3) Notwithstanding anything in the foregoing provisions of this section, the Board shall not—

- (a) make use of the services of a person who is an officer or employee to whom the provisions of the *Public Service Act 1973* apply; or

(b) determine the remuneration to be paid to any such person, except with the prior approval, in writing, of the Chairman of the Public Service Board.

(4) As soon as practicable after the commencement of this Act and the constitution of the Board, the Board shall employ under this Act those persons who, immediately prior to the commencement of this Act, were employed by the Department of Agriculture under the *Public Service Act 1973* as herd recorders and those persons so employed shall retain all their existing and accruing rights as if they had continued to be employed under the *Public Service Act 1973*.

(5) The *State Employees (Long-Service Leave) Act 1950* applies to and in relation to persons appointed by the Board under subsection (1) (a) as if the Board were a State authority as defined in that Act.

(6) The *Superannuation Act 1938* or the *Retirements Benefits Act 1970* (as the case requires) applies to and in relation to persons appointed by the Board under subsection (1) (a) as if—

- (a) they were employed by or on behalf of the State in an undertaking carried on by or on behalf of the State; and
- (b) the Board were a State instrumentality or an authority of the State within the meaning of section 61 of the *Superannuation Act 1938* or section 57 of the *Retirement Benefits Act 1970* (as the case requires).

Herd  
Improvement  
Account.  
*Ibid.*, s. 8.

**12**—(1) The moneys at the disposal of the Board for the purposes of this Act comprise—

- (a) moneys received by the Board for or in respect of—
  - (i) the sale or distribution of semen;
  - (ii) the sale by the Board of articles, goods, or other property; and
  - (iii) services rendered by the Board in the exercise or performance of its functions, powers, and duties under this Act;
- (b) moneys provided out of the Consolidated Revenue for the use of the Board; and
- (c) moneys received by the Board from any other source.

(2) All moneys to which subsection (1) relates shall, as and when received by the Board, be paid by the Board to the credit of an account in the Commonwealth Trading Bank of Australia to be known as the Herd Improvement Board of Tasmania Account (in this section referred to as "the Account").

(3) There shall be paid out of the Account all—

- (a) remuneration payable to members of the Board;
- (b) salaries, wages, and allowances payable to officers and employees appointed by or transferred to the Board;
- (c) expenditure incurred by the Board in or in connection with the purchase of stock, vehicles, equipment, articles, goods, and other personal property;
- (d) expenses payable to persons who, at the request of the Board, attend meetings of the Board for the purpose of giving evidence or information in relation to any matter being considered by the Board;
- (e) contributions and loans made by the Board pursuant to section 10 (1) (j); and
- (f) other expenses incurred by the Board in the administration of this Act.

(4) Any moneys that, at the commencement of this Act, are standing to the credit of the Artificial Breeding Board Account established under section 8 of the *Artificial Breeding Act* 1964 shall, on that commencement, be transferred to the Account.

**13—**(1) The Board may requisition the Treasurer for any moneys required by it for capital expenditure in connection with the operations of the Board under this Act (including the completion of any works commenced before the commencement of this Act by the Artificial Breeding Board established under the *Artificial Breeding Act* 1964) and the Treasurer shall pay to the Board forthwith the amount so requisitioned out of moneys available to him for the purpose.

Loans for  
capital  
expenditure.  
*Ibid.*, s. 9.

(2) The amount of all charges and expenses incurred by the Treasurer in borrowing or raising any sum of money for the purposes of this section shall, as at the date when the amount thereof has been ascertained, be deemed to constitute a payment by the Treasurer to the Board under this section and to form part of the moneys payable out of the Loan Fund for those purposes.

(3) The Board shall pay to the Treasurer on account of the Consolidated Revenue quarterly, on the last days of September, December, March, and June in each financial year, interest at the State rate in respect of all moneys paid by the Treasurer to the Board under this section or such portion thereof as the Treasurer may determine.

(4) The Board shall, as provided in section 15 (2), pay to the Treasurer annually such amounts as he may from time to time require to reimburse him for sinking fund contributions payable to the National Debt Commission in respect of moneys borrowed by him and paid to the Board under this section.

Working  
capital.  
*Ibid.*, s. 10.

**14**—(1) The Board may, with the consent of the Treasurer, borrow by overdraft on its bank accounts for the purposes of this Act any sums not exceeding \$200 000.

(2) The Board may at any time—

(a) to meet working expenses; or

(b) for the purpose of paying off any overdraft either in the whole or in part,

requisition the Treasurer for moneys, and, subject to this section, the Treasurer may lend to the Board, out of moneys available from the Loan Fund, such amount as he thinks fit, upon such terms as to repayment, payment of interest, and otherwise, as the Treasurer determines.

(3) The amount borrowed by the Board from the Treasurer under subsection (2) shall not at any time, together with the amount, if any, then owing by the Board on overdraft, exceed \$500 000.

Reserves and  
provision for  
depreciation,  
&c.

*Ibid.*, s. 11.

**15**—(1) The Board shall make such annual provision as the Treasurer may approve for—

(a) the depreciation of assets; and

(b) the other purposes of this section,

and the moneys so set aside shall be credited to a special account (in this section referred to as “the depreciation account”).

(2) The Board shall in each financial year, out of the depreciation account, pay to the Treasurer such sum as the Treasurer may certify to be necessary to reimburse the Treasurer for the amount of the sinking fund contributions paid by the Treasurer in that financial year to the National Debt Commission in respect of such payments

made by the Treasurer to the Board under section 13 as were outstanding at the commencement of that year.

(3) Upon payment to the Treasurer by the Board of a sum pursuant to subsection (2), the amount owed by the Board in respect of the payments under section 13 in relation to which the sum is so paid shall be reduced by an amount equal to the sum so paid plus any sum that the Commonwealth, in accordance with the Financial Agreement, contributes towards the redemption of those payments.

(4) Subject to subsection (5), the Board may, out of the moneys at its disposal for the purposes of this Act, set aside such sums as it considers necessary for the purpose of—

- (a) making provision for undetermined losses or liabilities; or
- (b) creating a reserve, or reserves, against contingencies.

(5) The Board shall not exercise the power conferred on it by subsection (4) unless the Treasurer has approved of the amount of each provision or reserve, and the purpose for which each provision or reserve is made.

(6) The moneys provided—

(a) pursuant to subsection (1); or

(b) by reason of the making of a provision or the creating of a reserve pursuant to subsection (4),

after making provision for any payments required to be made to the Treasurer pursuant to subsection (2), may, with the consent of the Treasurer be applied by the Board for all or any of the purposes set forth in subsection (7).

(7) The purposes for which moneys may be applied under subsection (6) are—

(a) making investments in such securities as the Governor may approve;

(b) financing the purchase of new assets or the replacement of assets;

(c) making payments to the Treasurer in reduction of the capital indebtedness of the Board to the State;

(d) making deposits with the Treasurer upon such terms including terms as to the payment of interest thereon by the Treasurer as may be agreed upon between the Board and the Treasurer; and

(e) defraying the costs and expenses incurred by the Board in or in connection with the exercise by the Board of any of the powers conferred on it by section 10 (1) (e).

Accounts, &c.,  
to be kept by  
Board.  
*Ibid.*, s. 12.

**16** The Board shall keep such accounts, and prepare such annual financial statements in relation thereto in such form and containing such particulars, as the Treasurer may approve.

Audit of  
accounts.  
*Ibid.*, s. 13.

**17**—(1) The Board shall submit its accounts to the Auditor-General for audit on or before the 16th August in each year.

(2) The Auditor-General has, in respect of the accounts of the Board, all the powers conferred on him by the *Audit Act* 1918 in relation to the public accounts.

Costs of  
administration  
of Act.

**18** The Treasurer may, out of any moneys voted by Parliament for that purpose, make grants to the Board to enable it to defray all or any of the costs or expenses incurred, or to be incurred, by it in the exercise or performance of its powers, functions, or duties under this Act.

Contributions  
by owners.  
*Ibid.*, s. 20.

**19**—(1) The owner of any stock that are subjected to herd improvement services shall pay to the Board such contributions, in such cases, and of such amounts, as are from time to time determined by the Board.

(2) The regulations may, for the purposes of this section, differentiate between different species of stock and different types or combinations of service and different areas or periods in or during which stock of any species are subjected to artificial insemination and production recording, and prescribe different amounts in respect of different species of stock or in respect of the artificial insemination and production recording of stock in different areas or during different periods.

Protection of  
the Board and  
members, &c.,  
of the Board  
from liability.  
*Ibid.*, s. 23.

**20** No matter or thing done, or contract entered into, by the Board or by any member, or by any officer or employee, of the Board subjects the Board or that member, officer, or employee to any personal liability in respect thereof if the matter or thing was done, or the contract was entered into, in good faith for the purposes of this Act.

**21**—(1) The Governor may make regulations for the purposes of this Act. Regulations.  
*Ibid.*, s. 24.

(2) In particular, and without derogating from the generality of subsection (1), the regulations may be for or with respect to—

- (a) the mode of nomination of persons for membership of the Board;
- (b) the mode of appointment of deputies of representative members of the Board;
- (c) the expenses to be paid to persons appearing before the Board to give evidence or information with respect to any matter being considered by the Board;
- (d) the registers and other records to be kept by the Board;
- (e) the procedure at meetings of the Board;
- (f) procedures for production recording of stock;
- (g) procedures for artificial breeding of stock; and
- (h) procedures for the conduct of breeding programmes.

(3) Notwithstanding subsections (1) and (2), the regulations which the Governor may make under this section for or with respect to any of the matters specified in subsection (2) (f), (g), and (h) shall be so made on the recommendation of the Board.

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## THE SCHEDULE

### (Section 2)

No. of Act	Title of Act
16 of 1964 .....	<i>Artificial Breeding Act 1964</i>
19 of 1966 .....	<i>Artificial Breeding Act 1966</i>
37 of 1973 .....	<i>Artificial Breeding Act 1973</i>
93 of 1975 .....	<i>Artificial Breeding Act 1975</i>

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APPENDIX

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