

MARKETING OF PRIMARY PRODUCTS.

No. 49 of 1963.

AN ACT to amend the *Marketing of Primary Products Act 1945.* [24 October 1963.]

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 *Marketing of Primary Products Act 1963.*

Short title, citation, and commencement.

(2) The *Marketing of Primary Products Act 1945*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act, other than sections five and six thereof, commences on a date to be fixed by proclamation, and sections five and six of this Act commence on the date on which the Governor gives his assent to this Act.

2 Section two of the Principal Act is amended—

Interpretation.

(a) by omitting from subsection (1) the definition of “commodity” and substituting therefor the following definitions:—

“‘commodity’ means a product or variety or grade of product in respect of which a board is established, and, when used in relation to any board, means the product or the variety or grade of product in respect of which that board is established;

‘draft scheme’ means a draft scheme prepared by the Minister under section three or section twenty;” and

(b) by omitting from that subsection the definition of “prescribed producer” and substituting therefor the following definition:—

“‘prescribed producer’ means—

(a) when used in relation to a draft scheme, any person who has the qualifications of a prescribed producer specified in that scheme; and

- (b) when used in relation to a board, any person who has the qualifications of a prescribed producer specified in the proclamation under which the board is established or prescribed in respect of that board by regulations under this Act;”.

3 Sections three and four of the Principal Act are repealed and the following sections are substituted therefor:—

Schemes for establishment of marketing boards.

“3—(1) Where the Minister is satisfied, on representations made to him by the producers of any product, that a substantial number of the producers of that product, or of any variety or grade of that product, desire that a marketing board should be established in respect of that product or that variety or grade of that product, he may prepare a draft scheme for the establishment of such a board.

“(2) A draft scheme shall specify—

- (a) the name of the board that it is proposed to be established (being a name that conforms with the requirements of section twelve);
- (b) the product or the variety or grade of product in respect of which it is proposed that the board should be established;
- (c) the number of members, being not less than three or more than seven, that it is proposed should constitute the board; and
- (d) the qualifications of prescribed producers for the purposes of the draft scheme.

“(3) The Minister may publish a notice of the draft scheme in the *Gazette* and in such other newspapers as he thinks fit, and take such other steps to bring the draft scheme to the notice of producers of the product, or the variety or grade of product, to which the scheme relates as he thinks appropriate in the circumstances.

“(4) A notice of a draft scheme published under subsection (3) of this section shall state that a poll will be held in respect of the draft scheme if, before such date as may be specified in the notice, being a day falling not earlier than one month from the first publication of the notice in the *Gazette*, requisitions for the holding of such a poll are received by the Minister from the specified number of prescribed producers.

“(5) For the purposes of this section in relation to a draft scheme ‘specified number’ means such number, not being greater than fifty, as may be specified in the notice of that scheme published in accordance with subsection (3) of this section.

“(6) Where a notice of a draft scheme has been published in accordance with subsection (3) of this section and the specified number of requisitions for the holding of a poll in respect of the scheme are not received by the Minister in accordance with the notice, the Governor may, by proclamation, confirm the draft scheme.

“(7) Where a notice of a draft scheme has been published in accordance with subsection (3) of this section and the specified number of requisitions for the holding of a poll in respect of the scheme are received by the Minister he may, by notice in the *Gazette*, withdraw the draft scheme or cause a poll to be held in respect of the scheme.

“(8) Where the Minister under subsection (7) of this section withdraws a draft scheme in respect of any product, or variety or grade of product, he may prepare a further draft scheme in respect of that product or any variety or grade thereof notwithstanding that no further such representations as are referred to in subsection (1) of this section have been received by him.

“(9) Every prescribed producer who is registered under section six in respect of a draft scheme is entitled to vote at a poll that the Minister causes to be held under this section in respect of that draft scheme.

“(10) Where the Minister causes a poll to be held in respect of a draft scheme, and—

- (a) the number of votes polled in favour of the draft scheme exceeds three-fifths of the total number of votes polled; and
- (b) at least seventy per cent of the prescribed producers who are entitled to vote at the poll have recorded their votes,

the Governor may, by proclamation, confirm the draft scheme.

“(11) Where a draft scheme is confirmed by proclamation under this section a board shall be deemed to be established in accordance with that scheme under that proclamation, and references in this Act to any matters specified in such a proclamation shall be construed as including references to any matters specified in the scheme confirmed by that proclamation.

“4—(1) Where the Minister causes a poll to be taken under this Act in respect of a draft scheme he shall by order determine the date on which the poll is to be held and shall appoint a returning officer to conduct the poll.

Polls in respect of schemes.

“(2) Where the date on which a poll is to be held has been determined by an order under this section the Minister may by a further order postpone the poll to such day as may be specified in the order.

“(3) The Minister shall cause a notice of any order made under this section and the name and address of any returning officer appointed under this section to be published in the *Gazette*, and the date fixed by any such order as the day on which a poll is to be held shall not be earlier than two months after the date of the publication of a notice of that order under this subsection.”.

Registration
of producers.

4 Section six of the Principal Act is amended—

- (a) by omitting subsection (1) thereof and substituting therefor the following subsection:—

“(1) Within forty-two days of the publication in the *Gazette* of the appointment of a returning officer to conduct a poll in respect of a draft scheme every prescribed producer shall register his name with that returning officer.

Penalty: Ten pounds.”;

- (b) by omitting subsection (3) thereof and substituting therefor the following subsection:—

“(3) In relation to a poll in respect of a draft scheme references in this section to a registrar shall be construed as references to a returning officer appointed under section four to conduct that poll, and where the draft scheme is confirmed by a proclamation under section three that returning officer, or such other person as may be appointed in that behalf by the Minister, shall be deemed to be the registrar of the board established under that proclamation until a registrar is appointed by the board.”;

- (c) by omitting from subsection (4) the words following the word “poll” (first occurring) and substituting therefor the words “in respect of the draft scheme.”; and

- (d) by adding at the end thereof the following subsection:—

“(7) A roll revised in accordance with this section shall be the roll for any election or poll held under this Act in respect of the commodity to which the roll relates.”.

Vacation of
membership.

5—(1) Section thirteen of the Principal Act is amended—

- (a) by omitting from sub-paragraph (i) of paragraph (f) of subsection (1) the word “or” (occurring at the end thereof);

- (b) by omitting sub-paragraph (ii) of that paragraph;

- (c) by inserting after that subsection the following subsection:—

“(1A) Notwithstanding anything in subsection (1) of this section the office of a member of a board does not become vacant by reason only of—

- (a) his lending to the board of any money or his entering into, carrying out, or executing any contract or agreement for the lending of any money to the board; or

- (b) the exercise or enforcement by or in respect of him of any powers, duties, liabilities, or obligations arising under this Act in relation to any commodity of which he is the producer.”.

(2) Where at any time before the commencement of this section any money has been lent to a board, or any act or thing has been done by or in respect of a member of a board, that if subsection (1A) of this section had been in force at the time when that money was lent or that act or thing was done, would not have caused the office of that member to have become vacant, the lending of that money or the doing of that act or thing shall be deemed not to have rendered that office vacant.

6 After section thirteen of the Principal Act the following section is inserted:—

“13A—(1) If a member of a board has a pecuniary interest in any contract or proposed contract or other matter, and is present at a meeting of the board at which that contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter.

Disability
for voting
on account
of interest.

“(2) A member of a board who fails to comply with subsection (1) of this section is guilty of an offence, and liable to a penalty not exceeding one hundred pounds.

“(3) Where a member of a board is convicted of an offence under this section his office as a member of the board becomes vacant.

“(4) For the purposes of subsection (1) of this section a member of a board shall not be regarded as having a pecuniary interest in any contract or proposed contract or other matter by reason only that he is a prescribed producer and that contract or other matter affects or would affect his pecuniary interests in common with the pecuniary interests of prescribed producers who are not members of the board.

“(5) For the purposes of this section, but subject to the provisions thereof, a person shall be treated as having a pecuniary interest in a contract or other matter—

- (a) if he or any nominee of his is a member of a company or other body with which the contract is made or proposed to be made or which has a pecuniary interest therein or in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a pecuniary interest therein or in the other matter under consideration.

“(6) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section, to be also an interest of that other spouse.

“(7) A prosecution for an offence under this section shall not be instituted except with the consent of the Attorney-General.”.

Vesting of commodities in boards.

7 Section nineteen of the Principal Act is amended by omitting from subsection (1) the words “product has been declared a commodity, and a board has been constituted in relation thereto” and substituting therefor the words “board is established in respect of a commodity”.

8 Section twenty of the Principal Act is repealed and the following section substituted therefor:—

Control of several products by one board.

“20—(1) The powers conferred on the Minister by section three shall be deemed to include power to prepare a draft scheme—

- (a) for the establishment of a board in respect of two or more products; or
- (b) for conferring on a board jurisdiction over any product other than the product in respect of which it is established.

“(2) In relation to a draft scheme prepared under subsection (1) of this section and any board constituted in pursuance thereof, this Act has effect subject to such modifications as the Governor may by order declare to be appropriate in the circumstances; and, without prejudice to the generality of the foregoing provisions of this subsection, any such modifications may make provision for securing—

- (a) that there is separate representation on the board for the prescribed producers of the different products in respect of which the board is established or over which it has, or is to have, jurisdiction; and
- (b) that separate polls are taken of the prescribed producers of the different products in respect of which the board is, or is to be, established or over which it has, or is to have, jurisdiction.

“(3) Subject to this section a board has the same rights, powers, authorities, duties, and obligations in respect of products over which it has been conferred jurisdiction in pursuance of this section as it has in respect of the product in respect of which it is established, and this Act has effect in relation to that board as if the product over which it has been so conferred jurisdiction were a product in respect of which that board were established.

“(4) References in this section to a product shall be construed as including references to any variety or grade of product.”.

9 Section forty-six of the Principal Act is amended—

Regulations.

- (a) by omitting from paragraph (b) of subsection (1) the words "product or" (twice occurring); and
 (b) by inserting after subsection (1) the following subsection:—

"(1A) Where regulations made under paragraph (b) of subsection (1) of this section in respect of a board come into force so much of the proclamation under which that board is established as specifies the qualifications of prescribed producers ceases to have effect."

LONG SERVICE LEAVE (No. 2).

No. 50 of 1963.

AN ACT to amend the *Long Service Leave Act* 1956. [24 October 1963.]

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 *Long Service Leave Act* (No. 2) 1963. Short title and citation.

(2) The *Long Service Leave Act* 1956, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section five of the Principal Act is amended—

What constitutes continuous employment.

- (a) by inserting after paragraph (d) of subsection (1) thereof the following paragraph:—

"(da) any absence from work, by leave of the employer, for the purpose of the employee attending a meeting of the Apprenticeship Commission of Tasmania or of any committee appointed under the *Apprentices Act* 1942;"