

## POTATO INDUSTRY AMENDMENT ACT 1981

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### No. 22 of 1981

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## POTATO INDUSTRY AMENDMENT ACT 1981

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**AN ACT to amend the Potato Industry Act 1977 with respect to the constitution of the Potato Industry Authority.**

**[Royal Assent 29 April 1981]**

**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**—This Act may be cited as the *Potato Industry Amendment Act* Short title. 1981.

**2**—(1) This section, and sections 1, 3, 4, 5, 6, 7, 8, 9, 10, 14, 15, and 16, shall commence on the date of assent to this Act. Commence-  
ment.

(2) Sections 11, 12, and 13 shall commence 14 days after the date of assent to this Act.

Principal Act.

**3**—In this Act, the *Potato Industry Act 1977\** is referred to as the Principal Act.

Amendment of section 2 of Principal Act (Interpretation).

**4**—Section 2 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “part-processing”:

“pre-packing” means packing potatoes into small parcels suitable for sale by retail;

(b) by inserting “and includes a part of a quota” in the definition of “quota” after “IV”.

Amendment of section 3 of Principal Act (Potato Industry Authority of Tasmania).

**5**—Section 3 of the Principal Act is amended as follows:—

(a) by omitting subsection (2) and substituting the following subsection:—

(2) The Authority shall consist of 6 members appointed by the Governor on the nomination of the Minister, of whom—

(a) one shall be the Chairman;

(b) one shall be a person experienced in marketing, finance, economics, science, industrial matters, or consumer affairs;

(c) one shall be a registered potato wholesaler nominated in accordance with Part I of Schedule I; and

(d) three shall be registered potato growers nominated in accordance with Part II of Schedule I.

(b) by omitting subsections (3) and (4);

(c) by omitting subsection (5) and substituting the following subsection:—

(5) At least two of the persons appointed under subsection (2) (d) shall be persons who have been granted quotas at some time during the 12 months prior to their appointment.

(d) by omitting from subsection (6) “(4)” and substituting “(2) (b), (c), or (d)”;

(e) by omitting subsections (7) and (8);

(f) by omitting from subsection (11) “election or”.

**6**—Section 6 (3) of the Principal Act is amended by omitting “section 3 (4) (c)” and substituting “section 3 (2) (d)”. Amendment of section 6 of Principal Act (Proceedings of the Authority).

**7**—Section 14 of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) “varied” and substituting “increased, reduced, or varied as to the class of potatoes to which they relate”;

(b) by omitting from subsection (3) “or varying quotas” and substituting “, reallocating, increasing, or reducing quotas, or varying the class of potatoes to which a quota relates”.

Amendment of section 14 of Principal Act (Purpose of quotas).

**8**—Section 16 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:— Amendment of section 16 of Principal Act (Allocation of quotas at commencement of season).

(3) The Authority shall allocate quotas for a season to such of the persons making application under subsection (2) as it determines in accordance with subsections (3A) and (3B).

(3A) In allocating quotas under subsection (3), the Authority shall, except in the case of applicants who have applied for a reduced quota, endeavour to ensure that applicants who have previously been allocated quotas and have fulfilled those quotas to the satisfaction of the Authority are—

(a) allocated quotas not less than the quotas allocated to them in respect of the previous season; or

(b) where the Authority allocates quotas which are smaller than the quotas allocated in the previous season so as not to create an excess of potatoes that are not readily disposable by the Authority—allocated quotas that have been reduced in equal proportions.

(3B) If, after allocating quotas in accordance with subsection (3A), quotas remain unallocated, the Authority in allocating those quotas shall give preference to applicants who are registered as potato growers and who have not been granted quotas, and quota holders who, in the opinion of the Authority, have been allocated small quotas but are capable of fulfilling increased quotas.

Substitution of section 17 of Principal Act.

**9**—Section 17 of the Principal Act is repealed and the following section is substituted:—

Alteration of quotas and new quotas.

17—(1) A quota allocated to a registered potato grower for a season may, at the request of that grower, be reduced or cancelled, and the Authority may—

(a) where the quota is reduced, allocate the surplus of that quota; or

(b) where the quota is cancelled, reallocate that quota, to another registered potato grower or other registered potato growers, during that season.

(2) Where a quota becomes available for allocation or reallocation under subsection (1), the Authority shall invite applications on terms and conditions not inconsistent with subsection (3) by advertisement in a publication circulated to all registered potato growers.

(3) In setting terms and conditions to apply to the selection of successful applicants, the Authority shall ensure that preference is given to registered potato growers who have not been allocated quotas, and quota holders who, in the opinion of the Authority, have been allocated small quotas but are capable of fulfilling increased quotas.

(4) Where the Authority reduces quotas in respect of a season, otherwise than at the request of the holders of those quotas, the Authority shall reduce those quotas in equal proportions.

(5) During a season the Authority may allocate a quota to a person who becomes registered as a potato grower during that season and applies for a quota.

Amendment of section 19 of Principal Act (Applications to review allocation or variation of quotas).

**10**—Section 19 (1) of the Principal Act is amended by omitting “ 17 (5) ” and substituting “ 17 (1) ”.

Amendment of section 23 of Principal Act (Authority may fix maximum prices and charges).

**11**—Section 23 (6) of the Principal Act is amended by omitting “ liable to a penalty of \$500 ” and substituting “ is liable on summary conviction to a penalty not exceeding \$500 ”.

**12**—Section 25 (1) of the Principal Act is amended by omitting “ liable to a penalty of \$1 000 ” and substituting “ is liable on summary conviction to a penalty calculated at a rate not exceeding \$200 for each tonne of potatoes in respect of which the offence is committed ”.

Amendment of section 25 of Principal Act (Prohibition on sale of potatoes outside quota).

**13**—Section 42 of the Principal Act is amended by omitting subsection (6) and substituting the following subsection:—

Amendment of section 42 of Principal Act (Regulations).

(6) The regulations may provide for a contravention of, or failure to comply with, any provision of the regulations to be an offence and for the imposition of a penalty not exceeding \$250 for such an offence and, in the case of a continuing offence, to a daily penalty of \$20 for each day that the offence continues.

**14**—Schedule I to the Principal Act is amended as follows:—

Amendment of Schedule I to Principal Act.

- (a) by omitting from the heading “ Section 3 (3) ” and substituting “ Section 3 (2) ”;
- (b) by omitting the heading to Part I and substituting “ *Appointment of the member of the Authority under section 3 (2) (c)* ”;
- (c) by omitting from paragraph 2 of Part I “ section 3 (3) ” and substituting “ section 3 (2) ”;
- (d) by omitting the heading to Part II and substituting “ *Appointment of members of the Authority under section 3 (2) (d)* ”;
- (e) by omitting from paragraph 2 of Part II “ section 3 (3) ” and substituting “ section 3 (2) ”.

**15**—Section 45 of the Principal Act is amended by omitting all the words following “ expires ” and substituting “ on 26th April 1984 ”.

Expiry.

**16**—A person holding office as a member of the Authority under section 3 of the Principal Act immediately before the commencement of section 5 of this Act shall be deemed to hold office under the Principal Act as amended by this Act and he shall hold office for the remainder of the period specified in his instrument of appointment under the Principal Act.

Savings provision.

