



SOFT FRUIT INDUSTRY.

No. 107 of 1973.

ANALYSIS.

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AN ACT to amend the *Soft Fruit Industry Act 1972*. [22 January 1974.]

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 *Soft Fruit Industry Act* Short title and citation.
1973.

(2) The *Soft Fruit Industry Act 1972* is in this Act referred to as the Principal Act.

Interpretation.

2 Section two of the Principal Act is amended—

- (a) by omitting from subsection (1) the definition of “ aggregate base crop ”;
- (b) by omitting from that subsection the definition of “ base crop ”;
- (c) by omitting from that subsection the definition of “ production agreement ”;
- (d) by omitting from that subsection the definition of “ registered property ”;
- (e) by adding to the end of the definition in that subsection of “ soft fruit ” the words “ and any other kind of fruit that, under subsection (1A) of this section, the Governor declares to be soft fruit to which this Act applies; ”; and
- (f) by inserting after that subsection the following subsection:—
“(1A) The Governor may, by order, declare any kind of fruit (other than apples and pears) to be soft fruit to which this Act applies; and, for the purposes of the *Acts Interpretation Act* 1931, this Act shall, so far as it relates to that fruit, be deemed to commence on the date on which that order takes effect.”.

Appointment
of members of
the Board.

3 Section four of the Principal Act is amended—

- (a) by omitting from subsection (1) the words “ any estate or interest in a registered property ” and substituting therefor the words “ a producer’s licence ”;
- (b) by inserting in that subsection, after the word “ by, ”, the words “ the holder of a producer’s licence or ”;
- (c) by omitting from subsection (2) the words “ proprietors of registered properties ” and substituting therefor “ holders of producer’s licences ”;
- (d) by omitting from paragraph (a) of subsection (3) the words “ is the proprietor of a registered property the aggregate base crop for which is at least ten tons ” and substituting therefor the words “ holds a producer’s licence authorizing him to sell at least ten tons of soft fruit ”;
- (e) by inserting in that subsection, after the word “ subsection, ”, the words “ a producer’s licence shall be deemed to be in force throughout the season for which it is issued, and ”;
- (f) by omitting from subsection (4) the words “ proprietor of a registered property ” and substituting therefor the words “ holder of a producer’s licence ”;
- (g) by omitting from that subsection the words “ proprietor of that registered property ” and substituting therefor the words “ holder of that producer’s licence ”;

- (b) by omitting from subsection (5) the words "any registered property" and substituting therefor the words "the holder of any producer's licence"; and
- (i) by omitting from that subsection the words "proprietor of that registered property" and substituting therefor the words "holder of that producer's licence".

4 Sections twelve and thirteen of the Principal Act are repealed. Registration of properties and fixing of base crops.

5 Section fourteen of the Principal Act is repealed and the following section is substituted therefor:—

"14—(1) Subject to this section, where, under this section, a person becomes entitled to a producer's licence for any season authorizing him to sell any kind of soft fruit, the Board shall issue to him that licence in such terms as it considers proper in the circumstances. Producer's licences.

"(2) A producer's licence for a season authorizes the holder thereof to sell such quantities of such kinds of soft fruit (being soft fruit produced in that season) to such registered processors as may be specified in the licence.

"(3) A producer's licence authorizing the sale of any particular kind of soft fruit may distinguish between different grades of that soft fruit.

"(4) A person who holds a licence for a season authorizing him to sell any kind of soft fruit is entitled to be issued a producer's licence for the next ensuing season authorizing him to sell that kind of soft fruit.

"(5) Where the Board has given approval to the use of any land for the production of any kind of soft fruit for processing the person so using that land becomes entitled to a producer's licence authorizing him to sell that kind of soft fruit for the first season after that approval is given during which, in the opinion of the Board, soft fruit will be produced on that land that will be available for sale for processing.

"(6) The Board may refuse to issue a producer's licence to a person for any season unless he has observed the requirements laid down by the Board with regard to the furnishing to it of information with respect to the quantities of different kinds, or of different grades of any kind, of soft fruit that it is anticipated will be available for sale by him during that season, and the manner in which he desires that soft fruit to be disposed of.

“(7) A producer’s licence authorizing the sale of a quantity of any kind of, or any grade of any kind of, soft fruit to a registered processor shall not be issued unless that registered processor has notified the Board in writing that he is prepared to accept that soft fruit.

“(8) A producer’s licence may be transferred, and the transfer has effect on such day as may be notified in writing to the Board by the holder by whom it was transferred and the holder to whom it is to be transferred, being a date not earlier than the day on which the notification was given.”.

Alteration of
properties.

6 Section fifteen of the Principal Act is repealed.

Registration of
processors.

7 Section sixteen of the Principal Act is amended by omitting from subsection (8) the words “to be produced during that season or to be produced during that season on any particular property” and substituting therefor the words “that becomes available for sale during that season or available for sale during that season by the holder of any particular producer’s licence.”.

Fees in respect
of licences and
registrations.

8 Section seventeen of the Principal Act is amended—

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

“(1) Such fee as the Board in each particular case may determine is payable—

(a) in respect of the issue of a producer’s licence; and

(b) in respect of a registration or the renewal or transfer of a registration under section sixteen.”; and

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

“(5) In determining fees for the purposes of this section, the Board shall not adopt any method of assessment that discriminates between individual cases.”.

Production
agreements.

9 Section eighteen of the Principal Act is amended—

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

“(1) In accordance with this section the Board may enter into agreements (in this section referred to as ‘production agreements’) with producers and registered processors, or any of them.

“(1A) For the purposes of this section, ‘ a producer ’ means the holder of a producer’s licence or any person who the Board is satisfied will, if the agreement is carried out, become entitled to a producer’s licence.”;

(b) by omitting paragraph (a) of subsection (2);

(c) by omitting paragraph (b) of that subsection and substituting therefor the following paragraph:—

“(b) the determination of the terms of producer’s licences;” and

(d) by omitting subsection (3) and substituting therefor the following subsection:—

“(3) No such provision as is referred to in paragraph (b) of subsection (2) of this section shall be made in a production agreement with respect to any particular producer’s licence unless the holder thereof or the person to whom it is to be issued is a party to the agreement; and no such provision as is referred to in paragraph (c) of that subsection shall be made in the agreement unless the registered processor is a party to the agreement.”.

10 Section nineteen of the Principal Act is amended—

(a) by omitting from subsection (2) the words “ proprietor of the registered property on which that soft fruit has been, or is to be, produced ” and substituting therefor the words “ holder of the licence ”;

Effect of
producer’s
licences as
contracts
between
producers and
processors.

(b) by omitting from that subsection the word “ it ” and substituting therefor the words “ the soft fruit ”;

(c) by omitting from subsection (3) the words “ proprietor of the registered property on which that soft fruit is produced ” and substituting therefor the words “ holder of the licence ”;

(d) by omitting from that subsection the word “ it ” and substituting therefor the words “ the soft fruit ”;

(e) by omitting from subsection (4) the words “ proprietor of a registered property ” and substituting therefor the words “ the holder of a producer’s licence ”;

(f) by omitting from that subsection the words “ proprietor of that registered property ” and substituting therefor the words “ holder of that licence ”; and

- (g) by omitting from subsection (6) the words “ proprietor of a registered property ” and substituting therefor the words “ holder of a producer’s licence ”.

Restriction on
sale of soft
fruits.

11 Section twenty of the Principal Act is amended—

- (a) by omitting subsection (2) and substituting therefor the following subsection:—
- “(2) Subsection (1) of this section does not apply to the sale of soft fruit by a person who does not hold a producer’s licence if the total quantity of soft fruit sold by him in that season does not exceed one thousand pounds in weight.”;
- (b) by omitting from subsection (3) the words “ produced in any one season on a registered property that is sold ” and substituting therefor the words “ that is sold by a person holding a producer’s licence ”;
- (c) by omitting from that subsection the words “ the producer’s licence granted in respect of that registered property ” and substituting therefor the words “ that producer’s licence ”; and
- (d) by omitting therefrom the words “ so produced ”.

Restriction on
purchase and
processing of
soft fruit.

12 Section twenty-one of the Principal Act is amended—

- (a) by omitting from subsection (3) the word “ buys ”, and substituting therefor the words “, during any one season, buys from the holder of a producer’s licence ”; and
- (b) by omitting from that subsection the words “ produced in any one season on a registered property ”.

13 After section twenty-one of the Principal Act the following section is inserted:—

Regulations as
to standards,
&c., of soft
fruit.

“ 21A—(1) Regulations under this Act may prescribe requirements with respect to soft fruit delivered to registered processors and any such requirements may, with respect to any kind, or any grade of a kind, of soft fruit be prescribed by reference to all or any of the following matters:—

- (a) The nature or quality, or any characteristics or attributes, of the fruit; or
- (b) The absence from, or presence in, the fruit of any disease or organism, or any foreign material, including water.

“(2) Regulations made for the purposes of this section may prescribe the manner, whether by way of the taking, and of testing or examination, of samples, or otherwise, in which a failure to comply with any of the requirements referred to in subsection (1) of this section may be determined; and any determination so made is conclusive of the matter to which it relates.

“(3) Any person, being a holder of a producer’s licence or acting at the direction of the holder of such a licence, who delivers or causes to be delivered to a registered processor any soft fruit that does not comply with a requirement prescribed pursuant to this section is guilty of an offence and liable to a penalty of five hundred dollars.”.

14 Section twenty-two of the Principal Act is amended—

Powers of
inspection, &c.

(a) by omitting from paragraph (a) of subsection (1) the words

“any registered property or”;

(b) by omitting from subsection (2) the word “registered”;

(c) by omitting from subsection (5) the words “proprietor of a registered property” and substituting therefor the words “person holding a producer’s licence”; and

(d) by inserting after subsection (5) the following subsections:—

“(5A) For the purpose of enabling a determination to be made for the purpose of ascertaining whether the requirements referred to in section twenty-one A have been complied with a person authorized in that behalf by the Board may—

(a) detain any soft fruit that has been conveyed to a registered processor, or that he has reason to believe is being so conveyed;

(b) direct any person having property in or the possession of, or apparently in charge of, any such soft fruit to take it to a specified place; and

(c) take samples of any such soft fruit in the manner prescribed by the regulations.

“(5B) The Board may sell or otherwise dispose of, in such manner as it thinks fit, any soft fruit that is detained under this section and, on demand being made to it by the owner of the fruit, shall pay to him a sum equal to the proceeds of that sale or disposal after deducting therefrom the expenses reasonably incurred.

“(5C) References in subsection (5B) of this section to the owner of any soft fruit that has been detained shall be construed as references to the person who was the owner of the soft fruit at the time it was detained or any person upon whom the property in the soft fruit would have devolved by operation of law if it had not been so detained.

“(5D) Any person who without reasonable excuse (proof whereof lies on him) refuses or fails to comply with a direction given to him under paragraph (b) of subsection (5A) of this section is guilty of an offence and liable to a penalty of one hundred dollars.”.

Conversion to
metric system
of measurement.

15 On such day as the Minister may by order appoint for the purposes of this section each of the provisions of the Principal Act (as amended by the foregoing provisions of this Act) specified in the first column of the schedule is amended in the manner set forth against that provision in the second column of that schedule.

THE SCHEDULE.

(Section 15.)

CONVERSION TO METRIC SYSTEM OF MEASUREMENT.

Provision.	Amendment.
Section 2 (1)	By omitting the definitions of “ pound ” and “ ton ”.
Section 4 (3)	By omitting the words “ ten tons ” and substituting therefor the words “ ten tonnes ”.
	By omitting the words “ one hundred tons ” (wherever occurring) and substituting therefor, in each case, the words “ one hundred tonnes ”.
Section 20 (2)	By omitting the words “ one thousand pounds ” and substituting therefor the words “ five hundred kilograms ”.