

ABATTOIRS.

1° Elizabeth II., No. LVIII.

No. 58 of 1952.

AN ACT to amend the Abattoirs Act, 1909-1941.

[Assented to 23rd December, 1952.]

BE it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Abattoirs Act Amendment Act, 1952*.

(2) In this Act the Abattoirs Act, 1909-1941, Act No. 31 of 1909 as amended by Acts Nos. 17 of 1931 and 8 of 1941, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Abattoirs Act, 1909-1952.

2. The following heading is added before section one of the principal Act—

Heading
added
before s. 1.

PART I.

Division 1.—General.

3. Section two of the principal Act is amended by—

s. 2
amended.

(a) adding before the interpretation, “Controller” the following interpretations—

“appointed day” means a day to be fixed by proclamation as that on which the maintenance and management of the Midland Junction abattoir is transferred to the Board;

“Board” means The Midland Junction Abattoir Board constituted by this Act;

“Board employee” means a person employed or engaged under subsection (3) of section five of this Act;

(b) substituting for the word, “officer in control” in line one of the interpretation, “Controller” the word, “Controller”;

(c) adding before the interpretation, “Local Authority” the following interpretations—

“Fund” means the Midland Junction Abattoir Board Fund, mentioned in section seventeen of this Act;

“Government Department” means a Minister of the Crown acting in his official capacity, a State Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or non corporate, who or which under the authority of an Act, administers or carries on for the benefit of the State a public social service or utility;

- (d) adding before the interpretation, "Minister" the following interpretation—

"Midland Junction abattoir" means the abattoir at Midland Junction established, maintained and managed by the Governor exercising the powers conferred by section four of this Act and includes the saleyard;

- (e) adding after the word, "Controller" being the last word in the interpretation, "Officer" the words, "but does not include a Board employee";

- (f) adding before the interpretation, "Stock" the following interpretation,

"saleyard" means the saleyard maintained under the Government Stock Saleyards Act, 1941 as an adjunct to the abattoir.

Cf. No. 15 of 1941, s. 7.

S. 4 amended.

4. Section four of the principal Act is amended by adding after the word, "regulations" being the last word in the section the words, "but on and after the appointed day the Midland Junction abattoir shall be maintained and managed in accordance with the provisions of this Act by the Board".

S. 5 amended.

5. Section five of the principal Act is amended by—

- (a) adding after the section designation, "5" the following—

(1) Subject to the provisions of subsections (2) and (3) of this section;

- (b) adding the following subsections—

(2) By virtue of this Act the Controller shall be the General Manager and Chief Executive Officer of the Board.

(3) The Board may employ under contracts of service; and engage under contracts for service; persons whose services are required to enable the Board to maintain and manage the Midland Junction abattoir.

6. The following heading is added before section six of the principal Act—

Heading
added before
s. 6.

Division 2.—Regulations.

7. Section six of the principal Act is amended by—

S. 6
amended.

- (a) adding after the word, “abattoirs” being the last word in paragraph (b) the words “in general and the Governor may make regulations with respect to the use, control, and management of the Midland Junction abattoir in particular”;

8. The following heading is added before section seven of the principal Act—

Heading
added before
s. 7.

Division 3.—Miscellaneous.

9. Section eleven of the principal Act is amended by adding after subsection (3) the following subsection—

S. 11
amended.

- (4) The provisions of this section do not apply to the Midland Junction abattoir.

10. The following Part is added to the principal Act—

Part II
added.

PART II.—THE MIDLAND JUNCTION ABATTOIR.

Division 1.—The Midland Junction Abattoir Board.

12. (1) For the purposes of this Act there shall be a Board by the name of The Midland Junction Abattoir Board.

Board.

(2) The Board shall consist of three persons appointed by the Governor as members, of whom one shall be a Chartered Accountant and shall have regard to the interests of consumers of meat; one shall have regard to the interests of butchers; and one shall have regard to the interests of producers of meat.

Constitution
of Board.

(3) The Chairman of the Board shall be such member as the Governor appoints to that office.

(4) Except as provided in subsection (5) of this section each person appointed to office as a member of the Board shall hold that office for a term of five years and at the expiration of his term be eligible for reappointment.

Tenure of
office.

Circumstances in which office on Board becomes vacant.

(5) If a member of the Board—

- (i) is absent from his duties for a period of at least one month without the written consent of the Minister;
- (ii) becomes of unsound mind, or is declared, under the provisions of any law for the time being relating to mental infirmity, incapable of managing his affairs;
- (iii) becomes bankrupt or avails himself as a debtor of a law for the relief of bankrupt debtors;
- (iv) resigns, attains the age of sixty-five years, or dies;
- (v) without the written consent of the Minister participates or claims to be entitled to participate in the profit of or in a commission, benefit, or an emolument, arising from any contracts or agreements made by or on behalf of the Board;

(vi) is guilty of misbehaviour or of incapacity, his office on the Board shall become vacant.

Appointment to fill vacancy in office.

(6) Where an office of member of the Board becomes vacant otherwise than by effluxion of the term for which the occupant is appointed, the Governor may appoint a person to the vacant office for the remainder of that term, and at the expiration of that remainder that person shall be eligible for re-appointment.

Appointment of deputies.

(7) (a) The Governor may appoint persons having the same eligibility for appointment to the office of member of the Board, as that of the respective members of the Board, to be deputies of the members.

(b) In the absence or during the incapacity of a member, his deputy may act in his stead and shall have the same powers and duties as the member, if present, would have.

Validity of functions of deputies, etc.

(8) The appointment of, and an act or a matter or thing done by a person as a deputy of the Chairman or of either of the other members of the Board, as the case may be, or of a person to fill a vacancy in any of those offices shall not be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

(9) Each member of the Board and his deputy shall be entitled to such remuneration, allowances and leave of absence as is determined by the Governor.

Duties and remuneration, etc.

(10) At a meeting at which the Chairman and both of the other members of the Board are present, the resolution of the majority shall be the resolution of the Board.

Majority resolutions.

(11) (a) Two of the members of the Board shall form a quorum and shall have all the powers and duties conferred upon the Board by the provisions of this Act.

Quorum.

(b) Where at a meeting of the Board at which two of the members only are present, there is a difference of opinion on a matter, the resolution of that matter shall be postponed to a meeting at which all three members are present.

Postponement in case of disagreement.

(12) (a) Subject to the provisions of paragraph (b) of this subsection the convention of meetings and conduct of proceedings of the Board shall be as prescribed by the regulations, and until so prescribed shall be regulated by the Board.

Convention of meetings, and conduct of proceedings.

(b) Each member of the Board shall be entitled to one vote only.

(13) The Board shall keep a record of its meetings and proceedings.

Records to be kept.

13. (1) A member of the Board who without the written consent of the Minister, participates or claims to be entitled to participate in the profit of, or in a commission, benefit, or an emolument arising from a contract or an agreement made by or on behalf of the Board, commits a misdemeanour:

Penalty for participation in contracts.

Penalty—Imprisonment for three years.

(2) A party to a contract or an agreement mentioned in subsection (1) of this section, who without the written consent of the Minister allows a member of the Board to participate in a profit, or receive a commission or benefit, or an emolument mentioned in that subsection, commits a misdemeanour:

Penalty—Imprisonment for three years.

(3) The consent of the Minister may be given generally or in a particular case or in a class of case.

Division 2.—Powers of the Board.

Body
corporate.

14. The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued and compromise claims and actions.

Power of
Board
relating to
property.

15. (1) In this section—

“property” means real and personal property of every kind and includes any estate or interest in real and personal property;

“to acquire” means to acquire by purchase absolutely or on terms, exchange, gift, lease, a letting agreement, license and bailment;

“to dispose of” means to dispose of by sale absolutely or on terms, exchange, lease, letting, license, and bailment.

Maintenance
and manage-
ment of
Midland
Junction
abattoir.

(2) Subject to the Minister the Board is authorised—

(a) to maintain and manage the Midland Junction abattoir;

(b) for the purposes of maintaining and managing the Midland Junction abattoir—

(i) to employ and engage persons as Board employees;

(ii) to enter into contracts;

(iii) to establish and maintain reserve funds;

(iv) to acquire and dispose of property;

(v) to borrow money and obtain credit;

(vi) to erect, equip, furnish, alter, demolish, replace and maintain buildings and plant; and

(vii) to do such other things as are necessary for the purposes of maintaining and managing that abattoir;

but shall not, without the written approval of the Minister, enter into a contract involving a sum of more than one thousand pounds to acquire or to dispose of land, buildings, plant or equipment.

16. The expense of maintaining and managing the Midland Junction abattoir and of the administration of this Act shall be paid from the Midland Junction Abattoir Board Fund mentioned in section seventeen of this Act.

Costs of
administra-
tion.

17. (1) There shall be a fund called the Midland Junction Abattoir Fund.

The Fund.

(2) The Fund—

(a) shall be kept and operated in the manner prescribed by the regulations;

(b) shall comprise—

- (i) money derived from the management of the Midland Junction abattoir;
- (ii) fees, charges, rents, tolls, and other payments received by the Board;
- (iii) money in reserves vested in or established by the Board and maintained by the Board;
- (iv) property and investments in which money is invested by the Board;
- (v) money derived from that property and those investments;
- (vi) money derived from transactions relating to that property and those investments;
- (vii) such money as may from time to time be appropriated by Parliament to the funds of the Board;
- (viii) money advanced to the Board by the Treasurer; and
- (ix) such other money as is prescribed by the regulations.

(3) (a) Where at any time the Board is unable to meet its commitments from the Fund the Treasurer may advance to the Board the amount required in order to enable the Board to do so.

(b) The amount of an advance made under paragraph (a) of this subsection with interest at such rate as the Treasurer

determines from time to time shall be a first charge upon the Fund and repayable out of the Fund on demand by the Treasurer.

Power to invest.

18. With the approval of the Minister the Board may invest so much of the Fund as is not immediately required for the purposes of this Part, in investments approved by the Minister.

Division 3.—Transfer of Maintenance and Management of the Midland Junction Abattoir to the Board.

Transfer of functions.

19. (1) For the purposes of this section—

“functions” includes powers, rights, benefits, and obligations.

(2) On the appointed day the Governor shall cease to maintain and manage the Midland Junction abattoir and the Minister having the administration of the Government Stock Saleyards Act, 1941, shall cease to maintain and manage the saleyard, and the functions of maintaining and managing that abattoir and saleyard and all property of whatever kind certified by the Auditor General as comprising that abattoir and saleyard shall by virtue of this section be transferred to the Board.

Transition provisions.

(3) If anything has been commenced by or with the authority or on behalf of the Governor or that Minister before the appointed day in relation to the functions or property transferred by this section, the Board is authorised to carry on and complete it.

No abatement of legal proceedings.

(4) If at the appointed day legal proceedings relating to or arising out of the functions or property transferred by this section are pending the Board may be substituted for the Governor or that Minister, as the case may be, or person representing the Governor or that Minister in the proceedings, which shall not abate because of the operation of subsection (2) of this section.

(5) On and after the appointed day it shall be the duty of the Board subject to the Minister having the administration of this Act and subject to the regulations, for and on behalf of the State to maintain and manage the Midland Junction abattoir.

(6) For the purposes of interpreting and giving effect to this Act or any other Act or any rule, regulation, by-law, judgment, decree, order, award, deed, contract or other instrument or document, whether of the same kind as, or a different kind from, the foregoing, on and after the appointed day the Board may, but so far only as is necessary in consequence of the operation of this section, be substituted for the Governor or the Minister having the administration of the Government Stock Saleyards Act, 1941, as the case may be, or person representing the Governor in maintaining and managing the Midland Junction abattoir or that Minister in maintaining and managing the saleyard and consequential grammatical adjustments may be effected.

Interpreta-
tion of
documents.

Division 4.—Accounts and Miscellaneous.

20. (1) In respect of the maintenance and management of the Midland Junction abattoir the Board shall keep true and regular records of accounts—

Keeping
and inspec-
tion of
records of
accounts.

- (a) of the sums of money received and paid by the Board and owing to and by the Board and the respective purposes for which the sums have been received or paid or are owing; and
- (b) of the assets and liabilities, and profits and losses of the Board.

(2) The records of the Board's accounts shall be open to the inspection of the Auditor General and any person authorised by him to inspect them, and he may take copies or extracts from them.

21. The Board's accounts shall be balanced every year on the thirtieth day of June.

Accounts to
be balanced.

22. (1) The Board shall, in every year, cause a full and true balance sheet of its assets and liabilities, together with a trading account and such other statements as the Auditor General directs to be compiled from the records of the Board's accounts, and to be submitted to the Auditor General for audit.

Accounts to
be audited.

(2) The balance sheet and statement shall be so prepared as to show fully and faithfully the financial results of the Boards' operations for the year.

(3) If the Auditor General is of opinion that—

(a) the accounts are or are not properly drawn up so as to present a true and correct view of the transactions for the period under review as shown by the records of the Board's accounts; and

(b) all items of receipts and payments and all known liabilities and assets have or have not been brought into account and the value of all assets have or have not been fairly stated,

he shall issue his certificate accordingly.

(4) The Auditor General may, in respect of the accounts, exercise the powers conferred on him by the Audit Act, 1904-1950.

Annual report.

23. The Board shall prepare an annual report of its proceedings and operations during the preceding year, which report, together with copies of the balance sheet and statements of account then last prepared and audited and the Auditor General's report thereon, shall be laid by the Minister before both Houses of Parliament as soon as practicable in each year.

Board to confer and co-operate with other departments

24. (1) Where the exercise of a right, power or authority or the discharge of a duty by the Board may affect the exercise of a right, power or authority or the discharge of a duty by a Government department, the Board shall, so far as practicable, confer and co-operate with that department.

(2) Where a question, difference or dispute has arisen or is likely to arise between the Board and a Government department with respect to the exercise of a right, power or authority or the discharge of a duty by either or both of them, it may be finally and conclusively determined by the Governor.

Protection of members, officers, etc.

25. A matter or thing done by a member of the Board or his deputy or by the General Manager and Chief Executive Officer or by a Board employee if

done *bona fide* in the exercise of his powers or in the performance of his duties under this or any other Act, shall not subject him to personal liability.

26. An action shall not be—

Actions
against
Board.

- (a) maintainable against the Board for any cause unless the action is commenced within twelve months after its cause shall have arisen;
- (b) commenced until one month after a notice in writing is given to the Board stating the cause of action and the name and address of the party about to sue.

27. An action shall not lie or be brought or continued against the Board in respect of injury to the person, unless the person claiming to have been injured submits himself at such reasonable times as the Board may appoint to examination by a medical practitioner or medical practitioners appointed by the Board.

Plaintiff in
action for
personal
injuries to
submit to
medical
examination.

28. Where the common seal of the Board is affixed to a document, courts, judges and persons acting judicially shall take judicial notice of the seal and shall presume that it was regularly affixed.

Judicial
notice of
common
seal.

29. A notice, summons, writ or other proceeding required to be served upon the Board, may be served in the manner prescribed by the regulations.

Service of
notices and
legal pro-
ceedings.

30. A notice, order, summons or other document requiring authentication by the Board, may be sufficiently authenticated without the seal of the Board if signed by the Chairman or officer of the Board authorised by the regulations to sign it.

Documents,
how
authenti-
cated.

31. The Board may order either generally or in any particular case, that proceedings be taken for the punishment of persons offending against this Act or the regulations.

Power to
direct prose-
cutions.

32. In proceedings in Courts of petty sessions, an officer of the Board, appointed by the Chairman in writing under his hand for that purpose, may represent the Board.

Power of
officer to
represent
Board.

Proof of certain matters not required.

33. In prosecutions or other legal proceedings instituted by direction of the Board, proof is not required, until evidence is given to the contrary, of—

- (a) the constitution of the Board;
- (b) the order of the Board to prosecute;
- (c) the particular or general appointment of an officer of the Board to take the proceedings;
- (d) the authority of the officer to prosecute;
- (e) the appointment of the Chairman or of any other member or officer of the Board; or
- (f) the presence of a quorum at a meeting of the Board at which an order is made or anything is done by the Board.

Evidence of documents issued by the Board.

34. Documents purporting to be issued or written by or under the direction of the Board, and purporting to be signed by the Chairman or an officer authorised by the regulations to do so, shall be received as evidence by courts and persons acting judicially within the State and shall, without proof, be deemed to have been issued or written by or under the direction of the Board until the contrary is shown.

Preservation of rights.

35. Acceptance of, or acting in, an office as member of the Board or as a deputy of a member of the Board, or as General Manager and Chief Executive Officer or as a Board employee does not, of itself, render the provisions of the Public Service Act, 1904, the Superannuation Act, 1871, or the Superannuation and Family Benefits Act, 1938, applicable to a person where they do not apply to him at the time of acceptance of or acting in the office or employment, nor, of itself, affect the application of those provisions to him where they applied to him at the time of the acceptance of or acting in the office or employment.

Board not to be subject to rates etc. Cf. No. 23 of 1904, s. 79 re-numbered as s. 88 in the reprint approved on 21/2/1949.

36. No rate, tax or assessment shall be made, charged, or levied upon the Midland Junction abattoir unless the contrary is expressly provided in any Act.