

## POULTRY INDUSTRY (TRUST FUND).

12° GEO. VI., No. XXVIII.

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No. 28 of 1948.

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AN ACT to authorise the establishment of a Trust Fund in relation to the Poultry Industry; to provide for the administration of that Fund, and the application of the moneys from time to time in that Fund, and for other purposes incidental thereto.

[Assented to 9th December, 1948.]

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

1. This Act may be cited as the *Poultry Industry (Trust Fund) Act, 1948*, and shall come into operation on a day to be fixed by proclamation. Short title.

2. This Act shall be read and construed so as not to exceed the legislative power of the State, the intention being that where any enactment herein would but for this section be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power. Severability.

Interpre-  
tation.

3. In this Act, unless the context otherwise requires—
- “Association” means Poultry Farmers’ Association of W.A.;
  - “Board” means The Western Australian Egg Marketing Board, as constituted under the Marketing of Eggs Act, 1945;
  - “Committee” means the Poultry Industry Trust Fund Committee constituted under this Act;
  - “dealer” means any person who—
    - (a) purchases eggs from a producer wholesale for resale; or
    - (b) receives eggs from a producer for sale wholesale on behalf of such producer; or
    - (c) being a producer, himself sells wholesale or retail eggs produced by him;
  - “eggs” means eggs of poultry;
  - “Fund” means the Poultry Industry Trust Fund established by this Act;
  - “Minister” means the Minister for Agriculture, or the Minister of the Crown from time to time acting as the Minister for Agriculture;
  - “producer” means a person who owns or controls twenty or more head of adult female poultry and sells all or any of the eggs produced thereby;
  - “poultry” means fowls and ducks;
  - “sale” includes barter or exchange;
  - “Under Secretary” means the Under Secretary for Agriculture.

Adminis-  
tration.

4. Subject to the general direction and control of the Minister, this Act shall be administered by the Under Secretary.

Poultry  
Industry  
Trust Fund  
Committee.

5. (1) A committee, to be called “The Poultry Industry Trust Fund Committee,” shall be constituted for the purposes of this Act.

(2) The Committee shall consist of three members, who shall be appointed by the Governor. Two of the members shall be persons who have been nominated by

the Association and approved by the Minister, and the remaining member shall be a person representing the Department of Agriculture and nominated by the Minister.

(3) The member representing the Department of Agriculture shall be the chairman of the Committee.

(4) Notice of every appointment of a member of the Committee shall be published in the *Government Gazette*.

(5) The Committee shall be a body corporate, with perpetual succession and a common seal.

6. The members of the Committee shall not hold office for a longer period than three years without re-appointment and, subject to due nomination, shall be eligible for re-appointment.

Terms of office of members

7. Any two members of the Committee shall form a quorum thereof.

Quorum

8. (1) At all meetings of the Committee the chairman shall preside, if present, and, in his absence, one of the members present shall be appointed by the members who are present to be chairman of the meeting.

Chairman to preside. Majority decision to be sufficient.

(2) Whenever all the members of the Committee are present at a meeting and they are not unanimous as to any matter, such matter shall be decided by the majority of the votes, and the decision so arrived at shall be the decision of the Committee.

(3) When only two members of the Committee are present and they are not unanimous as to any matter, no decision shall be made on the matter at that meeting, but further consideration thereof shall be adjourned until the next meeting of the Committee.

9. No act or proceeding of the Committee shall be invalid or prejudiced by reason only of the fact that at the time when the act or proceeding is done, taken, or commenced there is a vacancy in the office of any member, or by reason of the fact that the decision in regard thereto was arrived at by correspondence with the unanimous assent of the members.

Acts of Committee, &c. invalidated by vacancy

Deputy  
member.

10. The Governor may at any time appoint persons to be deputy members of the Committee in case of illness or other incapacity or absence from the State of any member of the Committee, or a vacancy in the office of any member, to act during the illness, incapacity, or absence, or until the vacancy is filled.

Secretary,  
inspectors,  
and other  
officers.

11. (1) The Under Secretary may appoint a secretary to the Committee and any inspectors and other officers who he is satisfied, on the information of the Committee, are necessary to enable the Committee to carry out its duties and functions.

(2) Any officer employed in the Department of Agriculture shall be eligible for appointment under subsection (1) of this section.

(3) Any person who in any way resists, interferes with, hinders, or obstructs any person so appointed in the exercise or discharge of any power or duty under this Act shall be guilty of an offence.

Penalty—Fifty pounds.

Remuneration  
of Committee.

12. The chairman and members of the Committee shall be entitled to such remuneration for their services and such travelling and other expenses as may be prescribed.

Power to  
require  
returns and  
particulars.

13. (1) The Committee may, by notice in writing under the hand of the chairman, given to any producer or dealer, require the producer or dealer to furnish in writing to the Committee such returns and particulars in relation to his business as carried on by him under this Act as the Committee may deem necessary for the purposes of this Act, and the Committee may specify in the notice a time within which the returns and particulars shall be furnished.

(2) Any person who fails or refuses to comply with the requisitions of any such notice within the time limited by the notice, or who furnishes any untrue return or particulars, shall be guilty of an offence.

Penalty—Ten pounds.

(3) The returns and particulars which may be required by the Committee under subsection (1) of this section shall be in addition to any returns and particulars which producers and dealers are required to furnish in accordance with the regulations.

14. (1) Any member of the Committee and any inspector or officer of the Committee authorised in writing by the Committee to do so may inspect any books, accounts, registers, records, documents, or writings which are in the custody or control of any producer or dealer, and which relate to the business carried on by him, and may take notes, copies, or extracts of or from them. Entry and  
Inspection.

(2) For the purposes of subsection (1) of this section, any member, inspector, or officer, may at any reasonable time enter any premises in which he believes any such books, accounts, registers, records, or writings are kept.

15. (1) For the purposes of this Act there shall be established a fund, to be called "The Poultry Industry Trust Fund," which shall be administered by the Committee. Poultry  
Industry  
Trust Fund

(2) All moneys from time to time belonging to the Fund shall be deposited in an account, to be called "The Poultry Industry Trust Fund Account," which shall be kept at the Treasury.

(3) The Fund shall consist of—

- (a) contributions made to the Fund under this Act; and
- (b) any moneys appropriated by Parliament for the purposes of this Act; and
- (c) penalties imposed upon convictions of offences against this Act, which, notwithstanding the Fines and Penalties Appropriation Act, 1909, are hereby declared to be payable into the Fund.

16. Any moneys in the Fund, which are not immediately required for the purposes of this Act, may, subject to the approval of the Minister, be invested by the Committee in any investments authorised by law for the investment of trust funds. Investment  
of moneys  
in the Fund.

Contributions  
to the Fund.

17. (1) Subject to this Act, every producer shall in every year contribute to the Fund in relation to the eggs produced by him for sale in that year.

(2) All such contributions shall be paid to the Committee.

(3) During such time as the Marketing of Eggs Act, 1945, is in operation and eggs produced by producers are under the disposition of the Board, the amount of the contribution shall be assessed in relation to the number of eggs which are produced by each producer and over which the Board exercises its powers of disposition pursuant to the provisions of that Act.

Such eggs of his own as the producer may use for incubation in connection with the production of chickens for use in his own business are exempt from the provisions of this section.

(4) After the Marketing of Eggs Act, 1945, ceases to operate and the disposition of eggs by producers thereof is no longer under the control of the Board, the amount of the contribution shall be assessed in relation to the number of eggs from each producer obtained or received by the dealer for sale or export.

(5) The rate of the contribution to be made by producers under this section shall be such rate as shall be declared from time to time by the Minister, on the recommendation of the Committee:

Provided that—

(i) such rate of contribution shall not in any event exceed one penny in respect of every thirty dozen eggs, as ascertained by the Board, or in respect of every thirty dozen eggs sold or exported for sale by the dealer, as the case may be; and

(ii) the liability of the producer to contribute to the Fund may be suspended at any time and from time to time by the Minister whenever the Committee is satisfied that the moneys in the Fund for the time being are sufficient for the purposes of this Act.

(6) During such time as the Marketing of Eggs Act, 1945, is in operation and the eggs of producers are in the disposition of the Board, the Committee may request the Board, and it shall be lawful for the Board to pay

to the Committee out of moneys collected from the producer or out of any moneys payable by the Board to any producer the amount of the contribution then payable by the producer to the Committee under this section, and the acknowledgment to the Board by the Committee of the amount so paid shall be a complete discharge to the Board as against the producer concerned in respect of the amount stated in the acknowledgment.

(7) After the Marketing of Eggs Act, 1945, ceases to operate, and the disposition of eggs by the producers thereof is no longer under the control of the Board, every dealer who obtains or receives eggs from a producer, and is liable to make to the producer any payment, or to account to the producer for any moneys in respect of the eggs so obtained or received by him, shall deduct out of the moneys payable by him to the producer or held by him to the credit of the producer, and pay to the Committee the amount of the contribution for which the producer is then liable under this section, and the acknowledgment by the Committee of the payment shall be a complete discharge to the dealer as against the producer in respect of the amount stated in the acknowledgment.

(8) The amount of all contributions deducted by a dealer in accordance with the last preceding subsection shall, until paid by him to the Committee, be a debt owing by such dealer to the Committee, and shall be recoverable at the suit of the Committee from the dealer in any court of competent jurisdiction.

(9) Any dealer who fails or neglects to deduct contributions from moneys payable by him to any producer, or held by him to the credit of any producer, in accordance with subsection (7) of this section, and any dealer who, having deducted contributions as required by that subsection, fails or neglects, or refuses, without reasonable excuse, to pay the contributions to the Committee at the time or in the manner prescribed, shall be guilty of an offence.

Penalty—One hundred pounds.

(10) Until such time as the amount of the contribution for which a producer is liable under this section is received by the Committee, either from the Board, or

from a dealer, or from the producer himself, the amount of the contribution shall be a debt owing by the producer to the Committee, and shall be recoverable at the suit of the Committee from the producer in any court of competent jurisdiction.

(11) If at any time the amount of any contribution received by the Committee in relation to the liability of a producer to contribute under this section is found to be in excess of the amount of the contribution for which the producer is then liable, the excess may remain in the Fund to the credit of such producer against future contributions which may become payable by him, or shall be refunded to the producer by the Committee out of the moneys in the Fund, as the producer may elect.

(12) For the purposes of this section, reference in this section to the Board shall be read and construed as including any board or authority that may hereafter be substituted for the Board in carrying out the same or similar functions to those carried out by the Board pursuant to the provisions of the Marketing of Eggs Act, 1945.

Application  
of moneys  
in the Fund.

18. (1) The moneys in the Fund shall, in the first instance, be charged with the payment of the following expenses, namely:—

- (a) The costs of the administration of this Act.
- (b) The fees and allowances of the members of the Committee.

(2) After payment of the expenses referred to in the last preceding subsection, and subject in every case to the approval in writing of the Minister, the moneys in the Fund may be used for all or any of the following purposes:—

- (a) The payment of the whole or portion of the costs and expenses of measures taken to prevent or eradicate pests and diseases affecting poultry and the eggs thereof.
- (b) The payment of compensation to producers in respect of the whole or portion of losses suffered by them as a result of measures taken to prevent or eradicate the pests and diseases aforesaid.



- (c) The payment of the costs of the promotion and encouragement of scientific research for the improvement of poultry and egg production, and of the transport of such eggs and poultry.
- (d) The provision of financial help for the Association and its branches in the carrying out of its activities for the benefit of producers.

Provided that such financial help shall only be granted when recommended by the Committee and approved by the Minister; and

- (e) any other purposes which, in the opinion of the Minister, will promote and encourage the poultry industry.

19. The Committee shall cause books to be provided and kept, and true and regular accounts to be entered therein— *Accounts.*

- (a) of all contributions to the Fund received by and owing to the Committee;
- (b) all moneys expended out of the Fund by the Committee and the several purposes for which such moneys shall have been so expended; and
- (c) of all the assets and liabilities of the Committee.

20. All such books shall be open to the inspection of the Auditor General and any person authorised by him to inspect the same. *Books may be inspected.*

21. The Committee shall cause its accounts to be balanced every year on the thirty-first day of July. *Accounts to be balanced.*

22. (1) The Committee shall cause a full and true balance sheet of the assets and liabilities, together with an income and expenditure account for each year, and such other statements as may be necessary, to be completed from the books and submitted to the Auditor General for audit. *Accounts to be audited.*

(2) The Auditor General shall, in respect to such accounts, have all the powers conferred on him by the Audit Act, 1904.

Copies of accounts as audited to be furnished.

23. The Committee shall, once at least in every year, furnish to the Minister a report of its transactions and a true copy of the accounts so audited.

Offences.

24. Any contravention of this Act, or of any regulations made under this Act, whether by act or omission, shall be an offence.

General penalty.

25. The penalty for any offence against this Act or the regulations for which no penalty is expressly provided, shall be a fine not exceeding fifty pounds.

Procedure.

26. Proceedings for offences against this Act or the regulations shall be taken and disposed of summarily under the provisions of the Justices Act, 1902-1942.

Regulations.

27. The Governor may make regulations not inconsistent with this Act prescribing all matters as by this Act are required or permitted to be prescribed, or as may be necessary or convenient to be prescribed for giving effect to this Act.

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