

Western Australia

Dried Fruits Act 1947

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Dried Fruits Act 1947

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Notes

Dried Fruits Act 1947

An Act to make provision for the Marketing of Dried Fruits, to ratify and validate certain past acts; matters and things and for other purposes.

[Assented to 10 January 1948.]

Be it enacted —

Preliminary

1. Short title

This Act may be cited as the *Dried Fruits Act 1947*.

2. Ratification of certain past transactions under the expired *Dried Fruits Act 1926*

All acts, matters and things done, executed or omitted after the expiry of the *Dried Fruits Act 1926*, but before the commencement of this Act which, if the *Dried Fruits Act 1926*, had not expired but had continued in operation until the commencement of this Act, would have been properly done, executed or omitted under the *Dried Fruits Act 1926*, shall be deemed always to have been valid and lawful, and are hereby authorized, approved, ratified, confirmed and validated accordingly.

3. Interpretation

In this Act, unless inconsistent with the context or subject matter —

“Board” means the Dried Fruits Board constituted by this Act;

“Dealer” means any person who buys or sells in any one year, whether on his own behalf or as agent for some other person, more than one ton of dried fruits, but does not include a shopkeeper who sells only such dried fruits as he buys from registered dealers;

“Dried fruits” means dried grapes and such other dried fruits as are declared by proclamation to be dried fruits for the purposes of this Act; and such fruits shall be deemed to be “dried” within the meaning of this definition if they are either completely dried or in the process of drying;

“Expired Act” means the *Dried Fruits Act 1926* (No. 49 of 1926 reprinted as amended by Act No. 8 of 1928 in the Appendix to the Sessional Volume of Statutes, 1928, and amended by Acts Nos. 21 of 1929, 32 of 1931, 15 of 1934, 41 of 1937, 21 of 1939, 3 of 1942 and 2 of 1944), which expired on the thirty-first day of March, 1947;

“Expired Board” means the Dried Fruits Board constituted under the expired Act as constituted immediately prior to the commencement of this Act, notwithstanding any change in such constitution since the expiry day;

“Expiry day” means the thirty-first day a March, 1947;

“Export parity price” of any dried fruits means the selling price for the time being in London of the like Australian dried fruits, less cost of freight, insurance, exchange, duties and all other charges;

“Grower” means any person who produces dried fruits for sale or barter;

“Minister” means the Minister for Agriculture or other Minister of the Crown for the time being charged with the administration of this Act;

“Package” includes every sack, bag, barrel, case, box, carton, or other container;

“Packing shed” means any building, erection, or other place whatsoever in which dried fruits are stemmed, processed, graded, sorted, or packed for the purposes of sale or trade or otherwise, whether such building, erection, or other place is or is not used for any other purpose;

“Public notice” means notice published in the *Gazette* and in a daily newspaper published in Perth.

Dried Fruits Board

4. Dried Fruits Board

A Board to be called the “Dried Fruits Board” is hereby constituted.

5. Constitution of Board

- (1) The Board shall consist of five members, who shall be appointed by the Governor. One member, who shall be nominated by the Minister, shall be chairman of the Board and each of the remaining four members shall be a representative of the growers.
- (2) The Board shall be a body corporate with perpetual succession and a common seal.

6. Terms of office of members

The members of the Board shall not hold office for a longer period than three years without re-appointment.

7. First members of the Board

- (1) Upon the commencement of this Act, the members of the expired Board shall cease to constitute the expired Board, and shall hold office as members of and shall constitute the Board under and subject to this Act.
- (2) Those members of the expired Board who represented the growers shall represent the growers on the Board constituted by this Act.

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- (3) The first members of the Board shall retire on the thirty-first day of December, one thousand nine hundred and forty-eight, but shall be eligible for re-appointment.

8. Growers' representatives after 31 December 1943, to be elected

The persons to be appointed as the members of the Board to represent the growers after the thirty-first day of December, one thousand nine hundred and forty-eight, shall be elected by the growers as hereinafter provided.

9. Elections

The elections of representatives of the growers to be appointed to the Board shall be held in such manner and at such times as are prescribed.

[Section 9 inserted by No. 49 of 1967 s.3.]

10. Quorum

Any three members of the Board shall form a quorum thereof.

11. Majority decision to be sufficient

- (1) At all meetings of the Board the chairman shall preside, if present; and in his absence the deputy chairman shall preside. The chairman or deputy chairman presiding shall have a casting vote only.
- (2) Whenever the members are not unanimous as to any matter, such matter shall be decided by the majority of votes, and the decision so arrived at shall be the decision of the Board.

12. Acts of Board not invalidated by vacancy

No act or proceeding of the Board shall be invalid or be prejudiced by reason only of the fact that at the time when such act or proceeding is done, taken or commenced there is a vacancy in the office of any member.

13. Appointment of deputies

- (1) The Minister may, in respect of any member of the Board, appoint a person to be the deputy of that member.
- (2) A person so appointed has, in the event of the illness or absence of the member of whom he is the deputy, all the powers of that member during his illness or absence.
- (3) No act done by a deputy in that capacity shall be questioned in any proceedings on the ground that the occasion for the exercise by him of the powers of the member of whom he is the deputy had not arisen or had ceased.

[Section 13 inserted by No. 49 of 1967 s.4.]

13A. Casual vacancies

- (1) The office of a member shall become vacant if he —
 - (a) dies;
 - (b) resigns by written notice given to the Minister;
 - (c) is removed from his office by the Governor for misbehaviour or mental or physical incapacity to perform his duties as a member; or
 - (d) absents himself without permission of the Board from more than four consecutive meetings of the Board, and is declared by resolution of the Board to have forfeited his seat.
- (2) A member appointed to fill a casual vacancy on the Board shall hold office for the balance only of the term of the member in whose place he is appointed.

[Section 13A inserted by No. 49 of 1967 s.5.]

14. Notification of appointment in Gazette

Notice of every appointment of the chairman or of a member or of a deputy chairman or a deputy member of the Board shall be published in the *Gazette*.

Officers

15. Secretary, inspectors, and other officers

- (1) The Board may appoint a secretary to the Board and any other officers whom it considers and functions.
- (2) The Board may also appoint such inspectors and other officers as it considers necessary for the purposes of this Act; and may authorize other persons to do such acts and things as it considers necessary for carrying out the purposes of this Act.
- (3) Any person who in any way resists, interferes with, hinders, or obstructs any inspector or other officer or person in the exercise or discharge of any power or duty under this Act shall be liable to penalty not exceeding \$2 000 or to be imprisoned for any term not exceeding six months.

[Section 15 amended by No. 20 of 1989 s.3.]

16. Contribution by growers to expenditure

- (1) Every grower shall, in every year, contribute towards the expenditure to be incurred by the Board in the administration of this Act, and in carrying out their duties and functions, such sum as is determined by the Board in accordance with the regulations; and such contribution shall be paid by the grower to the Board at the times, in the instalments, and in the manner prescribed:

Provided that no grower shall be required to contribute in any year an amount exceeding the prescribed rate per tonne on the quantity of dried fruit produced by him during the last preceding year, or in the case of a new grower, on the quantity of dried fruit estimated to be produced by him during the current year.

- (2) If any such sum or any instalment thereof is not paid as and when the same becomes payable, the amount thereof may be recovered as a debt due to the Board by action in any court of competent jurisdiction.

[Section 16 amended by No. 5 of 1968 s.2; No. 37 of 1971 s.2; No. 94 of 1972 s.4 (as amended by No. 19 of 1973.); No. 34 of 1981 s.3.]

17. General powers of the Board

The Board shall have power in its absolute discretion from time to time —

- (a) to make contracts with any person in respect to the purchase or sale of dried fruits produced in Australia;
- (b) to enter into contracts with Boards appointed under legislation in force in other States with objects similar to those of this Act for concerted action in the marketing of dried fruits produced in Australia and for purposes incidental thereto, and to carry out such contracts;
- (c) to open shops or depots for the sale of dried fruits, either wholesale or by retail;
- (d) to provide depots for the storage or distribution of dried fruits;
- (e) to fix the remuneration to be paid to dealers for the sale or distribution of dried fruits;
- (f) by means of advertising or any other appropriate means to encourage the consumption of dried fruits, and create a greater demand therefor;
- (g) to regulate by any such means as are prescribed the removal of dried fruits from packing sheds; and
- (h) to exercise such powers as are now or may hereafter be appointed by any Act of Parliament of the Commonwealth relating to dried fruits.

18. Board may give directions as to disposal of any season's dried fruits crop

- (1) The Board shall also have power, in its absolute discretion, from time to time to determine where and in what respective quantities the output of dried fruits produced in any particular year is to be marketed, and to take whatever action the Board thinks proper for the purpose of enforcing such determination.
- (2) Notice of every such determination shall be given —
 - (a) by public notice; or
 - (b) by sending by post to each grower, each owner or occupier of a packing shed or dealer affected or likely to be affected by the determination, at his address as registered with the Board, a letter containing particulars of the determination.
- (3) Except as provided by the *Dried Fruits Act 1928*,² of the Commonwealth, and unless and until other enabling legislation is enacted by the Parliament of the Commonwealth, no determination made by the Board under this section, or otherwise under this Act, shall operate so as to affect trade, commerce, or intercourse among the States.

[Section 18 amended by No. 70 of 1954 s.3.]

19. Legal proceedings by or against expired Board

The Board shall be the successor to the expired Board, and any legal or other proceedings which shall or may have been commenced by or against the expired Board under the expired Act may be continued or commenced and continued by or against the Board under this Act.

20. Vesting of assets and liabilities in Board

- (1) Forthwith upon the commencement of this Act —
 - (a) all moneys, debentures and Treasury Bills, and securities for moneys, and all interest thereon, and all books,

documents and other property held by or on behalf of the expired Board; and

- (b) all assets and liabilities of the expired Board; and
- (c) all powers, authorities, rights, title, interest and obligations in or with respect to such assets and liabilities, or any of them,

under or pursuant to the expired Act or any other Act, shall forthwith by virtue of this Act, and without any transfer or assignment whatever pass to and become vested in and imposed upon the Board constituted under this Act and be divested and discharged from the expired Board.

- (2) Any right or other remedy accrued to or against and any power or authority vested in or exercisable by and any agreement undertaking, mortgage, debenture, bond, lease, deed, guarantee, covenant or obligation made given or entered into by, to, or with the expired Board may be prosecuted and enforced by or against the Board constituted under this Act as if the right of action or remedy had originally accrued to or against or the power or authority had originally been vested in or exercisable by or the agreement, undertaking, mortgage, debenture, bond, lease, deed, guarantee, covenant or obligation had been made, given or entered into by, to, or with the Board constituted under this Act.
- (3) All actions and proceedings and things lawfully or deemed lawfully had and done by the expired Board, whether before or after the expiry day, shall be and continue to be in full force and effect to all intents and purposes as if the same had been had and done by the Board constituted under this Act, and if the same are not completed may be continued and completed by the Board constituted under this Act; and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained, or by the expiry of the expired Act or by any act, matter or thing done or executed by the expired Board since the expiry day and validated by this Act.

- (4) All penalties, fees, fines and forfeitures which at the expiry day may have been enforceable or recoverable by the expired Board shall and may be enforced and recovered by the Board constituted under this Act, but no person shall be liable to prosecution or punishment for any offence under the expired Act in respect of any act or omission which occurred between the expiry day and the commencement of this Act.
- (5) All officers and servants of the expired Board holding office or being employed at the commencement of this Act shall be deemed to have been appointed and engaged under this Act, but shall otherwise be subject to this Act as officers and servants of the Board constituted under this Act.
- (6) All Proclamations, Orders in Council, notices and regulations made under the expired Act and in force at the expiry day shall, subject to any amendment made or purporting to have been made prior to the commencement of this Act, continue in force until the same or any of them are amended or superseded by Proclamations, Orders in Council, notices and regulations under this Act; and in the construction of any such Proclamation, Order in Council, notice or regulation any reference to the expired Board shall be deemed to be a reference to the Board constituted under this Act; and any reference to any officer of the expired Board shall be deemed to be a reference to the officer of the Board constituted under this Act authorized or appointed in like behalf.
- (7) Where in any Act or in any regulation, Proclamation, Order in Council or other instrument or agreement a reference is made to the expired Board, such reference shall, on and after the commencement of this Act, and subject as may be otherwise provided in this Act, be deemed to be a reference to the Board constituted under this Act.

Registration of growers, dealers and packing sheds**21. Growers to register with the Board and to furnish certain particulars**

- (1) Subject to subsection (3) of this section, every person who is, at the time of the commencement of this Act, a grower within the meaning of that term as defined in this Act, or who, after the commencement of this Act, engages in the business of a grower, shall, within one month after the commencement of this Act, or within one month from the time when he commences to engage in the business of a grower, whichever is later, register with the Board by furnishing to the Board the following particulars, which shall be verified by a statutory declaration, namely: —
 - (a) His full name and address.
 - (b) The situation of his land, and a description of it sufficient to enable it to be identified.
 - [(c) and (d) deleted]*
 - and
 - (e) Any other particulars prescribed.
- (2) Every such person shall, so long as he continues to be engaged in the business of producing dried fruits, furnish to the Board annually, at such time as the Board by public notice requires, particulars of the estimated quantity of dried fruits he expects to produce during the then current year, and of the quantity produced by him during the last preceding year.
- (3) A grower who, prior to the commencement of this Act, shall have duly registered with the expired Board under the corresponding provisions of the expired Act, shall be deemed to have duly registered with the Board under subsection (1) of this section.
- (4) Where a grower sells, leases or otherwise disposes of any land upon which dried fruits are being or have been produced during the then current year or during the year immediately preceding

that year, he shall within fourteen days of the sale, leasing or disposition as the case may be, give notice in writing to the Board of the fact together with particulars of the land and the full name and address of the person to whom the land was sold, leased or disposed of as the case may be.

[Section 21 amended by No. 70 of 1954 s.4.]

22. Power to require returns from growers

- (1) The Board, in addition to any other power conferred on it may, by notice in writing given to any grower of dried fruits, require him to furnish in writing to the Board such particulars with respect to the dried fruits produced by him in any year as the Board may specify in such notice, and the Board may in such notice specify a time in which such particulars shall be furnished.
- (2) Any grower who fails to furnish such particulars within the time specified, or who furnishes any untrue particulars, shall be guilty of an offence.

23. Dealers to register with Board and furnish certain particulars

- (1) Subject to subsection (2) of this section, every person who in the year one thousand nine hundred and forty-seven sold, whether on his own behalf or as agent for some other person, more than two tonnes of dried fruits not produced by him from fruit grown by him, and who at the commencement of this Act is still engaged in the business of a dealer in dried fruits, shall, within one month from the commencement of this Act, register with the Board by furnishing to the Board the following particulars, which shall be verified by statutory declaration, namely: —
 - (a) His full name and address and, if he carries on business under a registered firm name, that firm name.
 - (b) The place where he carries on his business.

- (c) The quantity of dried fruits sold by him in Western Australia, whether on his own behalf or as agent for some other person, in the years one thousand nine hundred and forty-six and one thousand nine hundred and forty-seven.
 - (d) The estimated quantity of dried fruits he expects to sell as aforesaid in the year one thousand nine hundred and forty-eight; and
 - (e) Any other particulars prescribed.
- (2) Any person to whom this section applies who prior to the commencement of this Act, shall have duly registered with the expired Board under the corresponding provisions of the expired Act, shall be deemed to have duly registered with the Board under subsection (1) of this section.

[Section 23 amended by No. 94 of 1972 s.4 (as amended by No. 19 of 1973).]

24. Licenses to expire on commencement of Act

- (1) On the coming into operation of the *Dried Fruits Act Amendment Act 1954*, the registration of every dealer who is then registered or who is deemed to have been registered under the provisions of this Act expires.
- (2) No person shall after fourteen days of the coming into operation of the *Dried Fruits Act Amendment Act 1954*, carry on business as a dealer in dried fruits unless he is registered with the Board as a dealer.
Penalty: \$2 000.
- (3) (a) Application for registration or renewal of registration as a dealer shall be made to the Board in the prescribed form accompanied by the prescribed fee.
(b) The application shall contain the following particulars, verified by statutory declaration by the applicant —

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- (i) the applicant's full name and address and if he carries on business under a registered firm name, that firm name;
 - (ii) the place where he carries on business;
 - (iii) any other particulars prescribed.
- (4) The registration of a dealer expires on the thirty-first day of December next after it takes effect, but may subject to this Act, upon application duly made, be renewed.
- (5) The grant or refusal of an application for registration as a dealer or for the renewal of a registration is in the sole discretion of the Board.
- (6) The Board may cancel the registration whether original or renewed, of any dealer if that dealer is in the opinion of the Board acting in such manner as to defeat or delay or embarrass the Board in carrying out any policy of the Board, or if in the opinion of the Board he has refused or neglected to carry out any direction or determination of the Board.

[Section 24 inserted by No. 70 of 1954 s.5; amended by No. 20 of 1989 s.3.]

25. Duty of dealers to furnish returns and obey directions of Board

- (1) The Board may at any time, by notice in writing given to any registered dealer, require him to furnish to the Board any particulars with respect to the dried fruits sold or likely to be sold by him, whether on his own behalf or as agent for some other person, and may, by notice in writing given as aforesaid, give to any dealer such directions with respect to such dried fruits as the Board thinks proper, in order to ensure the observance of any determination for the time being in force, or any direction or policy of the Board.
- (2) The Board may at any time, by notice in writing given to the owner, occupier, or person in charge of any registered packing shed, require such owner, occupier, or person to furnish to the

Board within the time mentioned in the notice any particulars with respect to the dried fruits which are at the time or have previously been or are likely to be in such packing shed for the purpose of being stemmed, processed, graded, sorted, or packed, and may, by notice in writing given as aforesaid, give to any such owner, occupier, or person such direction as the Board thinks proper in order to ensure the observance of any determination for the time being in force, or any policy of the Board.

- (3) Any person who fails to comply with any requirement or direction of the Board under this section shall be liable to a penalty not exceeding \$2 000.
- (4) Any notice required to be given to any person for the purpose of this section may be served personally or sent by post addressed to such person at his usual or last known place of abode: Provided that a notice sent by post to the owner, occupier, or person in charge of a packing shed may be addressed to such owner, occupier, or person at the packing shed.

[Section 25 amended by No. 20 of 1989 s.3.]

26. Registration of fruit packing sheds

- (1) No person shall use or occupy any building, erection, or other place whatsoever for the purpose of stemming, processing, grading, sorting, or packing any dried fruits for trade or sale or otherwise, unless such building, erection, or other place is for the time being registered under this Act as a packing shed.
Penalty: Not exceeding \$200 for every day on which the building, erection, or place is used or occupied in contravention of this section.
- (2) Application for registration shall be made in such form as is prescribed, and the person making application shall furnish such particulars as are prescribed or as the Board requires.

The Board may, in its discretion, grant or refuse any application for registration.

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Any application granted by the expired Board shall be deemed to have been granted by the Board as constituted by this Act.

- (3) The registration of a packing shed shall expire on the thirty-first day of December in the year when it was effected, but may be renewed in such manner and upon such conditions as are prescribed.
- (4) When a packing shed has been registered, the registration thereof may at any time during the currency of the registration, upon application in the prescribed form, be transferred in favour of any other person.
- (5) Every application for registration or for the renewal or transfer of registration shall be accompanied by the prescribed fee.

[Section 26 amended by No. 34 of 1981 s.4; No. 20 of 1989 s.3.]

27. Registration may be cancelled

The Board may, with the approval of the Minister, cancel the registration of any packing shed if a person registered in respect thereof is in the opinion of the Board deliberately contravening any determination of the Board with respect to any dried fruits in such packing shed or if, in the opinion of the Board, he persistently refuses to collaborate with the Board in regard to carrying out any direction or policy of the Board in pursuance of the object of this Act.

Board may purchase, or compulsorily acquire dried fruits

28. Board may purchase or compulsorily acquire dried fruits

- (1) Subject to section ninety-two of the Commonwealth of Australia Constitution Act, the Board may purchase by agreement or acquire compulsorily any dried fruits in Western Australia grown and dried in Australia, not being dried fruits which are held for export under and in accordance with a valid and existing license granted under the *Dried Fruits Export Control Act 1924*, of the Parliament of the Commonwealth, or of which the Board constituted under that Act has accepted the control for

the purposes of that Act or which are included in any contract referred to in section eighteen of that Act: Provided that the Board, under the powers conferred by this Act, shall not acquire compulsorily any such dried fruits in any case where the owner or person having the control thereof has exported or arranged to export such quantity as he is licensed to export under and in accordance with such a license as aforesaid, and such further quantity (if any) as is determined by the Board, and for the export of which a license can be obtained under the said Commonwealth Act.

- (2) Any dried fruits acquired pursuant to this Act may be sold by the Board in such manner as it thinks fit.
- (3) The Board may, for the purpose of obtaining money to carry out this Act, and any acquisition authorized by this section, enter into any agreement with any person or with any bank carrying on business in Western Australia.

29. Provisions as to compulsory acquisition of dried fruits

The following provisions shall have effect with respect to the compulsory acquisition of dried fruits under this Act: —

- (1) The Board, by order in writing under the hand of the chairman or deputy chairman of the Board, such order being served upon any person being the owner of or having the control or disposal of any dried fruits described or referred to in the order, may declare that such dried fruits are acquired by the Board; and in any such order it shall be sufficient to describe the dried fruits so acquired as dried fruits in a certain locality or place or in any other manner by which the dried fruits may be identified.
- (2) Upon the service of any such order, all dried fruits described or referred to in such order shall cease to be the property of the then owner or owners thereof, and shall become and remain the absolute property of the Board, freed from any mortgage, charge, lien, or other

encumbrance thereon whatsoever; and the then owner or owners, and all agents, managers, attorneys, servants, and workmen of such owner or owners shall, without delay, hindrance, obstruction, claim, demand, or objection whatsoever, give immediate and peaceable possession of such dried fruits to the Board and all the title and property of the then owner or owners thereof shall be changed into a right to receive payment of the value thereof at the export parity price thereof at the time when such dried fruits are sold by the Board, to be paid at such times and intervals as the Board may by notice published in the *Gazette* declare: Provided that in any case where at the time of acquisition any person holds any mortgage, charge, lien, or other encumbrance over any such dried fruits, such person shall be entitled to receive payment, out of the sum which would otherwise be payable to the owner or owners, of the principal moneys and interest (if any) for the time being secured thereby in preference to the owner or owners, and only the balance (if any) of the value of such dried fruits shall be paid to the owner or owners.

- (3) The production of any such order shall be sufficient authority for the delivery of possession of any dried fruits described or referred to, or claimed to be described or referred to, in such order.
- (4) All dried fruits described or referred to, or claimed to be described or referred to, in any such order or demand may, without any warrant other than this, Act, be seized and taken possession of by any officer authorized, either generally or in any particular case, in writing by the chairman or deputy chairman of the Board in that behalf; and such officer, with any necessary assistance, may, for any of the purposes of this section, enter any place at any time and use any force which may be necessary.
- (5) Any person who refuses to deliver, or delays or obstructs or hinders the delivery of, any dried fruits described or

referred to, or claimed to be described or referred to, in any such order shall be liable to a penalty of not more than \$500; and if such person is a company the individual person guilty of the offence, and also the managing director or other manager in Western Australia of the company, shall each be liable to the like penalty.

- (6) In the event of any doubt or dispute as to the person legally entitled to receive any moneys payable under this section, the Board may pay the same into the Supreme Court to abide the, order of that Court.
- (7) The receipt given by any person to the Board for any moneys paid for any dried fruits acquired under this section shall be a sufficient discharge to the Board in respect of the liability to make payment therefor; but nothing herein shall prejudice or affect the right of any person claiming to be entitled to receive any such moneys to recover the same from any person to whom the Board has paid the same.

[Section 29 amended by No. 20 of 1989 s.3.]

Miscellaneous provisions

30. Existing contracts for the sale of dried fruits

- (1) All agreements in writing made before the coming into operation of this Act, for the sale of any dried fruits to be produced in the year one thousand nine hundred and forty-eight are hereby declared to be null and void: Provided that where a dealer has by any such agreement agreed to sell to any person or persons any dried fruits already purchased by him from growers, then such lastmentioned agreement shall continue valid and subsisting, and the agreements made by such dealer with growers shall be deemed to refer only to such quantity of dried fruits as is respectively notified in writing by the Board to each grower concerned, and so far as regards such quantity each such agreement shall continue valid and subsisting, but so far as

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regards the difference between such quantity and the quantity to which it actually refers shall be null and void.

- (2) Every agreement which by the proviso to subsection (1) hereof is declared to be valid and subsisting shall be registered by the purchaser thereunder with the Board within one month after the commencement of this Act, and the Board may, before registering any such agreement, require to be furnished with such evidence, in the form of a statutory declaration or otherwise, of its authenticity as the Board thinks proper. If any such agreement is not registered as required by this subsection, it shall cease to have any effect.
- (3) The Board shall, for the purposes of the proviso to subsection (1) hereof, notify to growers whose contracts are by that proviso declared to continue valid and subsisting as to part thereof, what quantity of dried fruits each grower is bound to deliver thereunder, and the Board's notification shall in all courts be accepted as conclusive evidence of that quantity.
- (4) Any purchaser who has, prior to the coming into operation of this Act, advanced to any grower any sum or sums of money under any agreement which is by this section declared to be null and void shall, by force of this Act, have a lien for the total sum advanced by him over the fruit crop of the next ensuing harvest of such grower, and such lien may be registered as prescribed.

31. Penalty for disobeying determination of Board

If any of the following persons, that is to say —

- (a) any grower;
- (b) any dealer; or
- (c) any person being the owner or occupier or person in charge of any packing shed,

sells or otherwise disposes of any dried fruits contrary to any determination of the Board applying to such fruits and notified to him in manner prescribed, such person shall be liable to a penalty not exceeding \$2 000.

[Section 31 amended by No. 20 of 1989 s.3.]

32. Penalty for possession of dried fruit under standard or misrepresenting standard of dried fruits

- (1) While regulation made under this Act or under the expired Act prescribing standards of quality for different grades of dried fruits and the grade description or grade mark to be used with respect to each standard is in force, every person shall be liable to a penalty of not more than \$2 000 who —
- (a) packs any dried fruits in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark prescribed to be used for dried fruits of the quality packed in the particular package;
 - (b) has in his possession any dried fruits contained in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark prescribed to be used for dried fruits of the quality contained in the particular package; or
 - (c) by the use of any description or mark on a package containing dried fruits represents such fruits to be of a particular standard, whereas in fact such fruits are not of that standard.
- (2) Where it is made to appear to the satisfaction of any inspector or officer appointed under this Act, or any member of the police force, at the time of discovering an offence —
- (a) that the person primarily liable has used all due diligence to avoid a breach of this section; and
 - (b) by what person the offence has been committed; and
 - (c) that it has been committed without the knowledge, consent, or connivance of the person primarily liable,
- the said inspector, officer or member of the police force shall proceed against the person whom he believes to be the actual

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offender without first proceeding against the person primarily liable.

[Section 32 amended by No. 20 of 1989 s.3.]

33. Packages containing dried fruits to be branded

- (1) Every person who packs any dried fruits shall, in manner prescribed, legibly and durably brand, stamp, or mark upon, or cause to be branded, stamped, or marked upon, every package containing any of such dried fruits —
 - (a) the name of the packer of such dried fruits;
 - (b) the registered brand or registered mark of such packer;
 - (c) a mark, consisting of one or more words, letters, or figures, or a combination of them, for the purpose of indicating the quality of the dried fruits contained in such package; and
 - (d) the net weight of the dried fruits contained in such package.
- (2) Every person who fails to observe any of the provisions of this section shall be liable to a penalty not exceeding \$1 000.

[Section 33 amended by No. 20 of 1989 s.3.]

34. Board subject to control of Minister

Notwithstanding anything hereinbefore contained, the Board in the exercise of its powers shall be subject to the control of the Minister, and if any action or proceeding, or intended action or proceeding by the Board is not approved by the Minister, he may, by notice in writing addressed to and served on the chairman, prohibit such action or proceeding, either absolutely or subject to such conditions as he may think fit, and effect shall be given by the Board to such notice.

35. General penalty

Every person who does not do anything directed to be done, or does anything forbidden to be done, by or under this Act, shall be liable to the penalty expressly provided therefor; and if no penalty is expressly provided therefor, shall be liable to a penalty of not exceeding \$2 000.

[Section 35 amended by No. 20 of 1989 s.3.]

36. Indemnity

No action, claim, or demand whatsoever shall lie or be made or allowed by or in favour of any person whomsoever against Her Majesty, or the Minister, or the Board or any member thereof, or any officer or person acting in the execution of this Act, or of the expired Act, for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of the passing of this Act, or of its operation, or of anything done or purporting to be done thereunder, save only for the price pursuant to this Act payable for any dried fruits purchased or acquired, or in respect of contracts made by the Board in its corporate capacity, under this Act.

37. Regulations

- (1) The Governor may make regulations for or with respect to —
 - (a) the purchase, acquisition, sale or marketing, or the arranging for the purchase, acquisition, sale, or marketing of dried fruits;
 - (b) the inspection of, and the granting of certificates as to the quality of, dried fruits intended for sale;
 - (c) (i) The inspection of dried fruits in packing houses, dehydrators, stores, warehouses, bonds, shops, or bakeries, on farms, drying grounds, drying racks, railway premises or wharves, in vehicles, railway trucks or boats or at any other place of whatever description, by inspectors appointed under this Act,

- and the facilities necessary to enable the inspectors to make the inspections and keep records of them and obtain samples of the fruit so inspected;
- (ii) the detention of dried fruits by inspectors or other persons authorized by the Board;
 - (d) the branding, marketing, or labelling of packages containing dried fruits;
 - (e) the registration of growers and the registration and renewal of registration of dealers and the forms to be used in connection therewith and the fee to be paid for the registration or renewal of registration of a dealer;
 - (f) the registration and the renewal and transfer of registration of packing sheds;
 - (g) the particulars to be furnished to the Board by growers and dealers desiring to be registered under this Act, in addition to the particulars required by this Act;
 - (h) the stemming, processing, grading, sorting, classification and packing of dried fruits in packing sheds;
 - (i) fixing standards of quality for different grades of dried fruits, and the grade description or grade mark to be respectively used for packages containing dried fruits of different grades;
 - (j) regulating the removal of dried fruits from packing sheds;
 - (k) any matters required or permitted by this Act to be prescribed;
 - (l) forms which may be used under this Act and the particulars which may be required of growers, dealers, and the owners, occupiers, or persons in charge of registered packing sheds;
 - (m) the fees or other remuneration to be received by the members of the Board;
- [(n) deleted]*

- (o) generally, all matters and things that may be deemed by the Governor to be necessary or convenient to be prescribed for carrying this Act into effect.
- (2) Any such regulations may prescribe penalties of not more than \$2 000 for any contravention thereof or failure to comply therewith.

[Section 37 amended by No. 70 of 1954 s.6; No. 98 of 1985 s.3; No. 20 of 1989 s.3.]

37A. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Board and its operations.

[Section 37A inserted by No. 98 of 1985 s.3.]

38. Time for commencing summary proceedings

All proceedings for offences against this Act shall be disposed of summarily and such proceedings may, notwithstanding any other Act to the contrary, be commenced at any time within twelve months from the time of the commission of the offence.

Notes

- ^{1.} This is a compilation of the *Dried Fruits Act 1947* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Dried Fruits Act 1947</i>	56 of 1947	10 Jan 1948	10 January 1948
<i>Dried Fruits Act Amendment Act 1954</i>	70 of 1954	30 Dec 1954	8 Mar 1957 (see <i>Gazette</i> 8 Mar 1957 p.529)
<i>Dried Fruits Act Amendment Act 1967</i>	49 of 1967	24 Nov 1967	2 Aug 1968 (see <i>Gazette</i> 2 Aug 1968 p.2252)
<i>Dried Fruits Act Amendment Act 1968</i>	5 of 1968	26 Sep 1968	26 Sep 1968
<i>Dried Fruits Act Amendment Act 1971</i>	37 of 1971	10 Dec 1971	10 Dec 1971
<i>Metric Conversion Act 1972</i> , (as amended by No. 19 of 1973)	94 of 1972	6 Jun 1973	The relevant amendments included in this reprint effective from 22 Mar 1974 (see <i>Gazette</i> 22 Mar 1974 p.965)
<i>Dried Fruits Amendment Act 1981</i>	34 of 1981	25 Aug 1981	31 Dec 1981 (see <i>Gazette</i> 31 Dec 1981 p.5364)
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> , section 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see <i>Gazette</i> 30 Jun 1986 p.2255)
<i>Agricultural Legislation (Penalties) Amendment Act 1989</i> , section 3 (schedule 1, item 16)	20 of 1989	1 Dec 1989	15 Dec 1989 (see <i>Gazette</i> 15 Dec 1989 p.4513)

NB: Section 3(1) to (5) of the *Statutes (Repeals and Minor Amendments) Act 2000* (No. 24 of 2000) reads as follows —

“

3. *Dried Fruits Act 1947* repealed, and transitional and consequential amendments

- (1) In this section —

“**Board**” means the Dried Fruits Board constituted by section 4 of the *Dried Fruits Act 1947*, as in force before the commencement of this section;

“**Minister**” means the Minister responsible for the administration of the *Dried Fruits Act 1947*, as in force before the commencement of this section;

“**repeal day**” means the day on which this section commences.

- (2) The *Dried Fruits Act 1947* is repealed.
- (3) On the repeal day —
 - (a) all assets and rights of the Board become assets and rights of the Minister without the need for any transfer and may be dealt with as the Minister thinks fit;
 - (b) all liabilities of the Board, including contingent liabilities, become liabilities of the Minister;
 - (c) any agreement to which the Board is a party (other than one to which the Minister is the other party) has effect as if the Minister were substituted for the Board as a party to that agreement;
 - (d) all proceedings commenced before the repeal day by or against the Board are taken to be proceedings pending by or against the Minister;
 - (e) anything done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b) before the repeal day by, to or in respect of the Board (to the extent that that thing has any force or effect) is taken to have been done by, to or in respect of the Minister;
 - (f) the Minister becomes the owner of all the Board’s registers, documents, books and other records, however compiled, recorded or stored, and of any tape, disc or other device or medium relating to those records; and
 - (g) the appointment of a person who, immediately before the repeal day, held office as a member of the Board is terminated.
- (4) The Minister is to complete the winding up of the operations and affairs of the Board as soon as practicable after the repeal day, and for that purpose the Minister has, and may exercise, any powers that are necessary.
- (5) Despite this section, the Board as constituted immediately before the repeal day continues in existence for the purposes of the report required by section 66 of the *Financial Administration and Audit Act 1985* with respect to the period from 1 July in the relevant year

until the completion of the winding up of the operations and affairs of the Board under subsection (4).

”.

² Repealed by *Commonwealth Act* No. 80 of 1950.