

CHICKEN MEAT INDUSTRY.

No. 58 of 1977.

AN ACT to improve stability in the chicken meat industry, to repeal the Chicken Meat Industry Committee Act, 1975, to provide for the continuation of the Chicken Meat Industry Committee established under that Act, and for incidental and other purposes.

[Assented to 23rd November, 1977.]

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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Chicken Meat Industry Act, 1977.* Short title.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Arrange-
ment.

3. This Act is divided into Parts as follows—

PART I.—PRELIMINARY.

PART II.—CHICKEN MEAT INDUSTRY COMMITTEE.

PART III.—REGULATION OF THE CHICKEN MEAT
INDUSTRY.

PART IV.—GENERAL.

PART V.—REPEAL AND TRANSITIONAL.

Definitions.

4. (1) In this Act, unless the contrary intention appears—

“broiler chicken” means a chicken which is being or has been grown under intensive housing conditions specifically for consumption as meat after processing;

“chicken” means a fowl of the species *Gallus gallus* that is not more than sixteen weeks old;

“chicken meat” means meat produced from broiler chickens;

“establish”, in relation to a processing plant, means to construct, instal, modify or adapt facilities at any place or premises in order that the place or premises can be used as a processing plant;

“grower” means a person who grows chickens in order that the chickens so grown will be sold or otherwise supplied in batches of not less than one thousand chickens to a processor as broiler chickens;

“member” means any member of the Committee and includes the chairman of the Committee and any deputy member or deputy chairman;

“processing”, in relation to broiler chickens, means killing and preparing the chickens for sale for consumption as meat;

“processor” means a person who receives or purchases broiler chickens for processing, and includes a person who receives or purchases broiler chickens from a grower for sale to another person for processing by that other person;

“processing plant” means any place or premises used for processing broiler chickens and includes any place or premises used for any stage of the processing of broiler chickens;

“section” means a section of this Act;

“subsection” means a subsection of the section in which the term is used;

“the Committee” means the Chicken Meat Industry Committee established by section 5 of the repealed Act and continued in existence by section 5;

“the Department” means the department of the Public Service of the State known as the Department of Agriculture;

“the repealed Act” means the Act repealed by section 25.

(2) A reference in this Act to the price to be paid by a processor to a grower for broiler chickens includes a reference to the fee to be paid for the growing of broiler chickens where chickens are—

- (a) delivered by a processor to a grower;
- (b) grown by the grower; and
- (c) returned to the processor as broiler chickens,

without the property in the chickens at any time passing to the grower.

PART II.—CHICKEN MEAT INDUSTRY COMMITTEE.

Continu-
ation of
Committee.

5. (1) The Chicken Meat Industry Committee constituted under the repealed Act immediately before the coming into operation of this Act is by and subject to the provisions of this Act continued in existence for the purposes of this Act as the "Chicken Meat Industry Committee".

(2) The Committee—

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue and be sued in its corporate name; and
- (c) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where in any judicial proceedings, whether under this Act or not, a document is produced bearing the seal purporting to be the common seal of the Committee the court or tribunal before which those proceedings are brought shall, in the absence of proof to the contrary, presume that—

- (a) the seal is the common seal of the Committee; and
- (b) the common seal was duly affixed.

Administra-
tion of Act.

6. Subject to the Minister the Committee shall have vested in it the administration of this Act.

Members.

7. (1) The Committee shall be appointed by the Minister and shall consist of seven members, namely—

- (a) one person who is an officer of the Department who shall be appointed to be a member and chairman of the Committee;

- (b) three persons appointed to be representative of processors after consultation by the Minister with such body or bodies representing the interests of processors as the Minister determines;
- (c) three persons appointed to be representative of growers after consultation by the Minister with such body or bodies representing the interests of growers as the Minister determines.

(2) The Minister may, after consultation with the bodies referred to in paragraphs (b) and (c) of subsection (1), appoint persons to be deputies of the several members appointed pursuant to those paragraphs, and any deputy so appointed is, in the event of the absence from a meeting of the Committee of the member of whom he is deputy, entitled to attend that meeting and when so attending has all the powers and functions of a member.

(3) The Minister may appoint one or more officers of the Department to be deputy chairman or deputy chairmen of the Committee and, in the event of the absence from a meeting of the Committee of the chairman of the Committee the deputy chairman, or, if there are two or more deputy chairmen, one of them, is entitled to attend that meeting and, subject to subsection (4) of section 11, when so attending has all the powers and functions of a member.

8. (1) Subject to this Act, each member shall hold office for such term not exceeding two years as is specified at the time of his appointment.

Term of
office.

(2) The Minister may terminate the appointment of a member—

- (a) who, in the opinion of the Minister, because of illness, incapacity, failure to attend meetings of the Committee or any other reason, has ceased to perform or be able to perform his duties as a member;

- (b) who, being a member other than the chairman or a deputy chairman of the Committee, in the opinion of the Minister, has ceased to be representative of processors or growers, as the case may be; or
- (c) who has notified the Minister, by writing under his hand, that he desires to resign his office as member.

(3) Where—

- (a) the appointment of any member is terminated pursuant to subsection (2); or
- (b) a member who is the chairman or a deputy chairman of the Committee ceases to be an officer of the Department,

the office of that member becomes vacant.

9. A member, other than the chairman or a deputy chairman of the Committee, may be paid such remuneration and allowances as the Minister determines.

Validity of
acts of
Committee.

10. An act, proceeding, decision or determination of the Committee is not invalid by reason only of any vacancy in the office of any member or any defect or irregularity in the appointment of any member.

11. (1) The Committee shall meet at least twice in every year ending on the 31st day of December, and shall meet at any time if so requested by the Minister or by one or more members.

(2) The quorum for a meeting of the Committee shall be five members consisting of—

- (a) the chairman or a deputy chairman;
- (b) two persons who are members appointed to be representative of processors or are deputies of such members; and

- (c) two persons who are members appointed to be representative of growers or are deputies of such members.

(3) The chairman of the Committee shall preside at any meeting of the Committee at which he is present and where the chairman is absent from a meeting of the Committee the deputy chairman attending the meeting in his absence shall preside at the meeting.

(4) The person presiding at a meeting of the Committee shall not vote on any matter arising at that meeting.

(5) Subject to this Act the Committee shall regulate its own procedure.

12. A member is not personally liable for any act done in good faith by the Committee or by him acting as a member.

Protection
of members.

13. (1) There shall be appointed under and subject to the Public Service Act, 1904 a secretary to the Committee and such inspectors and other officers as are necessary for the proper functioning of the Committee.

Secretary,
inspectors
and other
officers.

(2) A person may hold an office referred to in subsection (1) in conjunction with any other office in the Public Service of the State.

(3) Notwithstanding section 6 an inspector appointed pursuant to this section shall, in the exercise of his powers and the performance of his functions and duties under this Act, act under the direction of, and be responsible to, the chairman of the Committee.

14. The Committee may request any person for advice on any matter, and a person so requested may attend and speak at a meeting of the Committee but may not vote on any matter arising at that meeting.

Committee
may seek
advice.

Functions of
Committee.

15. The functions of the Committee shall be—

- (a) to make determinations pursuant to section 16;
- (b) to determine matters in dispute placed before it pursuant to section 18 and to use its best endeavours to settle by negotiation other disputes arising in the chicken meat industry;
- (c) to lay down criteria for determining whether a grower is an “efficient grower” for the purposes of determining his entitlements under an agreement with a processor;
- (d) to maintain records in respect of premises on which broiler chickens are grown including records as to the ownership, location and effective capacity of those premises;
- (e) to report to the Minister on any matter relating to the chicken meat industry referred to it by the Minister or on any matter on which it considers it should report to the Minister;
- (f) to make recommendations and submit proposals to the Minister from time to time with respect to regulations to be made under this Act;
- (g) to give advice to the Minister from time to time, or whenever requested to do so by the Minister, as to the future production requirements of the chicken meat industry, including advice as to the need for the establishment of new processing plants.

PART III.—REGULATION OF THE CHICKEN
MEAT INDUSTRY.

Determina-
tion of
standard
price.

16. (1) The Committee may, from time to time, and at such times as it considers necessary, determine the standard price to be paid by processors to growers for broiler chickens.

(2) Without limiting the operation of subsection (1), the Committee shall make a determination under that subsection as soon as practicable after—

- (a) the coming into operation of this Act;
- (b) being requested to do so by the Minister or a processor or grower.

(3) Where the Committee—

- (a) is required by or under subsection (2) to make a determination under subsection (1); or
- (b) considers that it is necessary for a determination to be made under subsection (1),

but is unable to reach agreement on the determination to be made, the chairman of the Committee shall report that fact to the Minister who shall appoint a single arbitrator to make the determination.

(4) For the purposes of making a determination under this section the Committee or arbitrator, as the case may be, shall compute the standard price to be paid by processors to growers for broiler chickens in the prescribed manner using cost of production figures supplied by the Department.

(5) The Committee or an arbitrator may include in a determination made under this section provisions defining circumstances in which and the limits within which the standard price determined may be varied.

(6) A determination made under this section—

- (a) is final; and
- (b) shall be notified in the *Government Gazette* and, when so notified, shall be binding on all processors and growers until such time as a further determination is made under this section.

(7) An arbitrator appointed under subsection (3) shall be paid such remuneration as the Minister, after consultation with the arbitrator, determines.

Agreements
to be in
prescribed
form.

17. (1) Subject to this Act—

- (a) a processor shall not purchase or otherwise receive broiler chicken from a grower for processing or for sale to another person for processing by that other person; and
- (b) a grower shall not sell or otherwise supply broiler chickens to a processor for processing,

on or after a day appointed by the Minister for the purposes of this section by notice published in the *Government Gazette* except in accordance with a written agreement between the processor and the grower that—

- (c) is in or to the effect of the prescribed form of agreement; or
- (d) was, at the time it was entered into, in or to the effect of the form of agreement prescribed at that time.

Penalty: First offence, \$1 000; Second offence, \$1 500; Third offence and any subsequent offence, \$2 000.

(2) This section shall not apply—

- (a) where the processor and the grower are the same person;
- (b) in respect of broiler chickens that are the subject of an exemption granted by the Minister under subsection (3); or
- (c) in respect of chickens that were delivered to a grower by a processor before the date appointed by the Minister pursuant to subsection (1) in order to be grown by the grower and returned to the processor as broiler chickens.

(3) The Minister may by notice published in the *Government Gazette*, exempt from the application of this section—

- (a) all broiler chickens grown by a grower specified in the notice;

- (b) all broiler chickens grown at premises specified in the notice; or
- (c) a specified batch of broiler chickens,

and may, by notice so published, vary or revoke any such exemption.

18. (1) Where a grower and a processor (in this section called "the parties") have entered into an agreement in or to the effect of the prescribed form of agreement and a dispute arises between the parties as to their respective rights, benefits or obligations under the agreement or as to the meaning, effect or operation of a term, stipulation or condition of the agreement the matter in dispute shall, on the application of either of the parties addressed to the secretary to the Committee, be placed before the Committee for determination.

Disputes
arising
out of
agreements.

(2) Where the Committee is unable to reach agreement as to the determination to be made on a matter placed before it pursuant to subsection (1) the chairman of the Committee shall report that fact to the Minister who may appoint a single arbitrator to determine the matter.

(3) A determination made under this section is final and shall be binding on the parties.

(4) A determination made under this section may, by leave of the Supreme Court or a Judge, be entered, and in every respect enforced as a judgment or order of the Supreme Court to the same effect.

(5) An arbitrator appointed under subsection (2) shall be paid such remuneration as the Minister, after consultation with the arbitrator, determines.

(6) The Minister may, after consultation with an arbitrator appointed under subsection (2), direct that the whole or a part of the remuneration to be paid to the arbitrator shall be paid by the parties in such proportions as the Minister directs.

(7) Any amount payable by a person pursuant to a direction given under subsection (6) may be recovered from that person as if it were a debt due to Her Majesty.

Establish-
ment of
processing
plants.

19. (1) Subject to subsection (4) a person who wishes to establish a processing plant shall apply to the Minister, in the form approved by the Minister, for approval to establish that processing plant.

(2) On application being made to him under subsection (1) the Minister may—

(a) approve in writing of the establishment of a processing plant at the place or premises specified in the approval; or

(b) refuse the application,

and the decision of the Minister is final.

(3) Subject to subsection (4) a person shall not establish or operate a processing plant unless the establishment of that processing plant has been approved of by the Minister pursuant to subsection (2).

Penalty: \$1 000.

(4) This section does not apply to or in relation to a processing plant that was being established or operated at the time of the coming into operation of this Act.

PART IV.—GENERAL.

Secrecy.

20. A person who discloses any information relating to any business that has been furnished to him or obtained by him pursuant to this Act is, unless the disclosure is made—

(a) with the consent of the person carrying on or operating the business;

(b) in connection with the administration of this Act; or

- (c) for the purposes of any legal proceedings arising out of this Act or of any report of such proceedings,

guilty of an offence against this Act.

Penalty: \$1 000.

21. Where a body corporate is guilty of an offence against this Act any director, secretary or employee of the body corporate who was knowingly a party to the commission of that offence is also guilty of that offence.

Offences by
bodies
corporate.

22. (1) Notwithstanding section 6 proceedings for any offence against this Act shall not be instituted except by, or by authority of, the chairman of the Committee.

Proceedings
for
offences.

(2) A complaint for an offence against this Act may be laid in the name of the chairman of the Committee by—

- (a) the secretary to the Committee; or
(b) any officer or inspector appointed pursuant to section 13 and authorised by the chairman of the Committee to lay complaints on his behalf,

and any proceedings for an offence instituted in the name of the chairman of the Committee shall, in the absence of evidence to the contrary, be deemed to have been instituted by his authority.

(3) A person referred to in subsection (2) may appear on behalf of the chairman of the Committee in any proceedings for an offence against this Act.

23. All proceedings for offences against this Act shall be heard and determined by a court of summary jurisdiction composed of a stipendiary magistrate.

Offences
to be
heard by
magistrate.

Regulations.

24. (1) The Governor may make regulations prescribing all such matters as by this Act are required or permitted to be prescribed, or as may be, in his opinion, necessary or convenient to be prescribed for giving effect to or achieving the objects of this Act or facilitating the exercise by the Committee of its powers, functions and duties under this Act.

(2) Without limiting the generality of the power conferred by subsection (1) regulations may be made—

- (a) prescribing a form of agreement for the purposes of section 17;
- (b) prescribing the manner in which the standard price to be paid by processors to growers for broiler chickens shall be computed for the purposes of section 16;
- (c) prescribing the powers of the Committee and arbitrators in relation to the hearing and determination of matters in dispute pursuant to section 18;
- (d) requiring growers or persons having the management or control of lands or premises used for or in connection with the growing of broiler chickens to furnish returns containing information required for the purposes of the records referred to in paragraph (d) of section 15;
- (e) for enabling an inspector appointed pursuant to section 13 to inspect land or premises referred to in paragraph (d) of this subsection in order to obtain information required for the purposes of the records referred to in paragraph (d) of section 15;
- (f) requiring processors to furnish audited statements or statutory declarations from time to time with regard to the amounts paid to growers in respect of broiler chickens;

- (g) providing for the issue of certificates of appointment to inspectors appointed pursuant to section 13 and prescribing the powers of inspectors so appointed;
- (h) imposing penalties not exceeding a fine of one hundred dollars for offences against the regulations.

(3) The form of agreement prescribed pursuant to paragraph (a) of subsection (2) may include alternative provisions that may be adopted and shall, *inter alia*,—

- (a) provide for the use of the standard price determined from time to time under section 16 (or that price as varied in accordance with a determination made under that section) as the basis for calculating the amounts to be paid by the processor to the grower in respect of broiler chickens purchased or otherwise received pursuant to the agreement;
- (b) provide for—
 - (i) a continuity of contract between the processor and the grower affording reasonable security for the grower;
 - (ii) the participation of the grower in the benefits of any growth expansion of the processor's output; and
 - (iii) the protection of the grower in the event of the contraction of the processor's output,

where the grower meets the criteria for an "efficient grower" laid down by the Committee from time to time;

- (c) provide for the discounting of efficiency where the failure of the grower to meet the criteria referred to in paragraph (b) of this subsection is due to the quality of chickens or feed, to disease or to any other cause whatever that is beyond the control of the grower; and

- (d) provide, as one of the obligations of the processor, that the processor will not sell, lease, assign or otherwise dispose of his interest in the business in respect of which broiler chickens are purchased or otherwise received pursuant to the agreement to another person who carries on or intends to carry on the business of processing broiler chickens (in this paragraph called "the purchaser") unless the rights and benefits of the processor under the agreement are also assigned to the purchaser pursuant to an instrument under which the purchaser undertakes to be bound by the agreement and to fulfil and carry out all of the obligations of the processor under the agreement.

PART V.—REPEAL AND TRANSITIONAL.

Repeal.

25. The Chicken Meat Industry Committee Act, 1975, is hereby repealed.

Transitional provisions as to members and officers.

26. (1) A person holding office as a member of the Committee immediately before the coming into operation of this Act continues to be entitled to hold the office, as if appointed as a member under and subject to the provisions of this Act, for the remainder of his current term of office.

(2) A person holding an office under section 11 of the repealed Act immediately before the coming into operation of this Act shall, on and from the coming into operation of this Act, be deemed to have been appointed pursuant to section 13 and to hold the corresponding office for the purposes of this Act.

Continuation of agreements.

27. (1) Notwithstanding section 25, an agreement entered into between a processor and a grower for the purposes of the repealed Act shall, subject to its terms, continue to have effect on and after the

coming into operation of this Act for the period ending on the day immediately preceding—

- (a) the day on which an agreement between the grower and the processor in or to the effect of the prescribed form of agreement takes effect; or
- (b) the day appointed by the Minister pursuant to subsection (1) of section 17,

whichever is the earlier day.

(2) By force of this subsection, it shall be deemed to be a term of each agreement continued by subsection (1) that the processor shall, if so required by the grower, enter into an agreement with the grower in or to the effect of the prescribed form of agreement before the day appointed by the Minister pursuant to subsection (1) of section 17.

28. Until criteria for determining whether a grower is an "efficient grower" are laid down by the Committee pursuant to section 15 the criteria for an "efficient grower" laid down by the Committee pursuant to section 13 of the repealed Act and applying immediately before the coming into operation of this Act shall continue to apply for the purposes of this Act.

Criteria for
efficiency.