

## MARKETING OF LAMB.

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No. 61 of 1971.

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AN ACT to establish the Western Australian Lamb Marketing Board and to provide for the marketing of lamb and for incidental and other purposes.

[Assented to 15th December, 1971.]

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:—

1. This Act may be cited as the *Marketing of Lamb Act, 1971.* Citation.

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

Arrange-  
ment.

3. This Act is divided into Parts, as follows—

PART I.—PRELIMINARY, ss. 1-4.

PART II.—THE WESTERN AUSTRALIAN LAMB MARKETING BOARD, ss. 5-15.

PART III.—MARKETING OF LAMB, ss. 16-22.

PART IV.—MARKETING OF HOGGET AND MUTTON, ss. 23-25.

PART V.—MISCELLANEOUS, ss. 26-31.

Interpreta-  
tion.

4. In this Act unless the contrary intention appears—

“chairman” means chairman of the Board;

“lamb” means a sheep which has not cut a permanent incisor tooth;

“lamb product” includes any carcass, skin or offal, or any part thereof, obtained from any lamb delivered to the Board, and also includes any lamb which is disposed of, live, by the Board after the lamb has been delivered to the Board;

“manager” means the manager of the Board appointed under section 14 of this Act;

“member” means member of the Board;

“producer” means a person who is engaged in the business of raising lambs for sale;

“the Board” means the Western Australian Lamb Marketing Board established by this Act.

PART II.—THE WESTERN AUSTRALIAN LAMB MARKETING BOARD.

Lamb  
Marketing  
Board.

5. (1) For the purposes of this Act, there shall be established a Board, to be known as the Western Australian Lamb Marketing Board, which, subject to the Minister, shall have vested in it the administration of this Act.

## (2) The Board—

- (a) is a body corporate with perpetual succession and shall have a common seal;
- (b) is capable, in its corporate name, of acquiring, holding, and disposing of real and personal property and of suing and being sued; and
- (c) is capable of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any document and shall presume that it was duly affixed thereto.

6. The Board, when established, is not an agent or servant of the Crown.

Board not to represent the Crown.

7. (1) Subject to subsections (4) and (5) of this section, the Board shall consist of five members, one member being the manager, *ex officio*, and the remaining four members being persons appointed by the Governor namely:—

Members.

- (a) two persons each of whom is a producer elected by prescribed producers;
- (b) one person, not being a producer, who is engaged in the slaughter, distribution or sale of lamb or lamb products and who is nominated by the Minister to represent persons so engaged; and
- (c) one person nominated by the Minister who is not a producer and is not engaged or financially interested in the slaughter, distribution or sale of lamb or lamb products and who shall be chairman of the Board.

(2) The Minister shall appoint a returning officer for each election of an elective member.

(3) Subject to subsection (4) of this section, each election of an elective member of the Board shall be held and conducted in such manner and at such time as is prescribed.

(4) The first election of one member referred to in paragraph (a) of subsection (1) of this section shall be conducted as soon as possible after the expiration of twelve months after the coming into operation of this Act, and the first election of the other member referred to in that paragraph shall be conducted as soon as possible after the expiration of two years after the coming into operation of this Act.

(5) The Governor may appoint two producers nominated by the Minister to be members of the Board and—

- (a) one of those producers shall be appointed for a term that expires when the first of the elections to be conducted under subsection (4) of this section has been completed; and
- (b) the other of those producers shall be appointed for a term that expires when the second of the elections to be conducted under subsection (4) of this section has been completed.

(6) The Board shall pay, out of the moneys held by it for the purposes of this Act, the expenses incurred in connection with the election of an elective member.

(7) Subject to subsection (5) of this section—

- (a) the chairman shall be appointed for a term of five years; and
- (b) each member other than the chairman and the manager shall be appointed for a term of three years.

(8) Subject to this Act, where the term of office of any member other than the manager expires

by effluxion of time, the member is eligible for re-election and re-appointment or for re-appointment, as the case requires.

(9) Each member other than the manager may be, at any time, removed from office by the Governor for disability, insolvency, neglect of duty, or misconduct or if—

- (a) having been appointed under paragraph (a) of subsection (1) of this section, he ceases to be a producer;
- (b) having been appointed under paragraph (b) of subsection (1) of this section, he ceases to be engaged in the slaughter, sale or distribution of lamb or lamb products; or
- (c) being the chairman, he becomes a producer or becomes engaged or financially interested in the slaughter, distribution or sale of lamb or lamb products.

(10) Each member other than the manager may, at any time, resign his office by writing addressed to the Minister.

(11) If any member other than the manager dies, resigns, or is removed from office, the vacancy in the office of member so vacated shall be filled in the manner in which the appointment to the vacant office was originally made and the person appointed to that office shall be appointed for the residue of the term for which his predecessor was appointed.

(12) The Minister may grant leave of absence to a member upon such terms and conditions as he determines.

(13) The Governor may, in respect of each member other than the manager, appoint a person representative of the same interests as that member to be his deputy, and may, in respect of the manager, appoint another officer or employee to be the deputy of the manager in his capacity as member.

(14) The powers of the Board are not affected by any vacancy in the membership thereof, and if a quorum is present all acts and proceedings of the Board are valid and effectual notwithstanding the vacancy.

(15) All acts and proceedings of the Board are, notwithstanding any defect in the appointment of any member or deputy, or that any member or deputy was disqualified or not entitled to act, as valid as if the member or deputy had been duly appointed and was qualified to act and had acted as a member or deputy and as if the Board had been duly and fully constituted.

**Business of Board.**

8. Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

**Meetings of the Board.**

9. (1) The first meeting of the Board after the coming into operation of this Act shall be convened by the chairman and thereafter, subject to subsection (2) of this section, meetings shall be held at the times and places determined by the Board but the chairman, or any two members, may, on reasonable notice to all members, call a meeting at any time.

(2) The chairman shall ensure that a meeting of the Board is conducted in each month.

**Proceedings of the Board.**

10. (1) At a meeting of the Board, three members entitled to vote constitute a quorum.

(2) The chairman shall preside at every meeting of the Board at which he is present but if the chairman or his deputy is not present at a meeting the other members present shall select one of their number to act as chairman.

(3) Questions arising at a meeting of the Board shall be decided, in open voting, by a majority of the votes of members present thereat, but the manager or his deputy is not entitled to vote on any question.

(4) The deputy of a member has, at any meeting of the Board at which he but not the member is present, all the powers and functions of that member.

(5) The chairman has a deliberative vote only and, if the votes of members present at a meeting and voting on a question are equally divided, the question shall be decided in the negative.

(6) The Board shall keep a record of its proceedings.

11. (1) The Board may, with the approval of the Minister, delegate to any member, officer or employee of the Board or other person, any of its powers and functions, except this power of delegation. Delegation.

(2) The Board may at any time revoke a delegation given under subsection (1) of this section, and a delegation so given does not prevent the exercise or discharge by the Board of any of its powers or functions.

12. The members of the Board shall receive such remuneration and expenses as are approved by the Governor. Remuneration and expenses of members.

13. A member or a deputy of a member is not personally liable for any act done in good faith by the Board or by him acting as a member or deputy. Protection of members.

14. (1) The Board may appoint a manager to be its chief executive officer and such other officers and employees as the Minister approves as necessary for the purposes of this Act. Appointment of officers of Board.

(2) All persons appointed under subsection (1) of this section are subject to the control and direction of the Board.

(3) The Minister shall, subject to any award or agreement in force under the Industrial Arbitration Act, 1912, determine the salaries and allowances of the officers and employees of the Board.

(4) Any person appointed, employed, or engaged by the Board is not subject to the provisions of the Public Service Act, 1904 or of the Government Employees (Promotions Appeal Board) Act, 1945.

(5) With the consent of the Minister administering a department of the Public Service of the State, the Board may, on such terms and conditions as are agreed between it and that Minister, use the services of a person employed in that department.

General  
powers of  
the Board.

15. (1) The Board may, for the purposes of this Act—

- (a) buy and sell any property;
- (b) enter into any contract;
- (c) borrow money;
- (d) mortgage or charge any of its property as security for the repayment of any money borrowed;
- (e) establish or maintain premises, machinery, plant, or other equipment for receiving, treating, handling, classifying, storing, chilling, processing, packing, or selling lamb and lamb products;
- (f) carry out, or enter into contracts for the carrying out of, slaughtering of lamb and the treatment, handling, classifying, storing, chilling, processing, packing or selling of lamb products;
- (g) act as shipping agent;
- (h) appoint persons to act as agents for the Board and authorize those persons to carry out on behalf of the Board such of its powers and functions as are prescribed or are agreed to between it and each such agent; and

- (i) do all other things which are necessary or convenient to be done by the Board for giving effect to this Act.

(2) The Treasurer on behalf of the State may guarantee, on such terms and conditions as he thinks fit, the repayment of any moneys borrowed by the Board under this Act, and the payment of interest thereon.

(3) The Treasurer shall cause any money required for fulfilling any guarantee given by him pursuant to subsection (2) of this section to be paid out of the Public Account which is hereby appropriated to the necessary extent, and the Treasurer shall cause any sums received or recovered by him from the Board or otherwise in respect of any money so paid by him to be paid into the Public Account.

#### PART III.—MARKETING OF LAMB.

16. (1) Subject to this Act, a person who is in the possession of lambs may deliver the lambs to the Board. Delivery of lambs.

(2) The Board may from time to time—

- (a) by notice in writing served on the person to whom it is addressed; or
- (b) by notice published in a newspaper circulating throughout the State,

specify the manner in which and the times and places at which lambs may be delivered to the Board by or on behalf of the person or persons referred to in the notice, or by or on behalf of persons generally, and the period of notice required to be given to the Board prior to the delivery of lambs to it, and may by subsequent notice amend or revoke any such notice.

(3) Whenever the Minister, after receiving the advice of the Board, is of opinion that it is desirable to regulate the number of lambs to be delivered to the Board in a particular period, either generally

throughout the State or in any particular area or areas only, he may by notice published in the *Gazette* declare that during such time as is specified in the notice, the Board may limit and regulate the number of lambs to be delivered to it either generally or in the particular area or areas, and may by subsequent notice so published extend or reduce the period or areas, or both, for which the first-mentioned notice has effect.

(4) During any period specified in a notice published under subsection (3) of this section, the Board is not obliged to accept delivery of any lambs within any area to which the notice relates, except from a person who—

- (a) having applied in the manner directed by the Board for the approval of the Board for the delivery of lambs to the Board during that period, has been granted approval for the delivery to the Board of a number of lambs during that period; and
- (b) delivers lambs not exceeding the number specified in the approval of the Board at a time and place specified by the Board.

(5) Subject to subsections (4) and (7) of this section, the Board shall not refuse to accept delivery of a lamb that is made in accordance with the terms of a notice given under subsection (2) of this section.

(6) The Board is not obliged to accept delivery of a lamb in any case where the delivery or proposed delivery is not in accordance with the terms of a notice given under subsection (2) of this section, and where, in such a case, the Board accepts delivery or where the Board accepts delivery in a case where it is entitled to refuse to accept delivery under subsection (4) of this section, any additional expenses incurred thereby by or on behalf of the Board may be deducted from any amounts otherwise payable by the Board to the person by or on whose behalf the lamb was delivered to the Board.

(7) The Board is not obliged to accept delivery of a lamb—

- (a) if the lamb is suffering from, or is affected by, disease;
- (b) if it appears that the carcass that would be obtained from the lamb would be unfit for human consumption; or
- (c) if for any reason, including the dirty condition of the lamb or its weight, it appears that the proceeds of the sale of lamb products that would be obtained from the lamb may be less than the costs that would be incurred by the Board in respect of the lamb.

(8) Delivery of any lamb to the Board may be made by delivering the lamb to an officer or employee of the Board authorized by the Board to accept delivery on its behalf or to an agent of the Board appointed to act on its behalf in connection with the delivery of lambs.

17. (1) Upon delivery of any lamb to the Board, the lamb becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests, trusts, contracts and encumbrances affecting it; and the rights and interests of every person to or in the lamb shall thereupon be converted to a claim for payment therefor in accordance with the provisions of this Act.

*Effect of  
delivery, etc*

(2) A person who delivers any lamb to the Board shall, at the same time, furnish to the officer, employee or agent accepting delivery on behalf of the Board in accordance with subsection (8) of section 16 of this Act, a statement in writing setting out the names and addresses of all persons known by him to have or to claim any interest in the lamb and all particulars known to him of those interests.

18. Subject to subsection (1) of section 17 of this Act, no person claiming any right or title,

*Liens,  
mortgages,  
etc.*

whether as owner of or as being entitled to any lien, mortgage, charge, encumbrance or other claim over any lamb delivered to the Board, shall have any claim against the Board on account thereof.

Unauthorized  
slaughtering  
prohibited.

19. (1) Subject to section 20 of this Act, a person shall not slaughter a lamb or cause or permit a lamb to be slaughtered unless, at the time of the slaughter, the lamb is the property of the Board and is being slaughtered for or on behalf of the Board.

Penalty: Two hundred dollars.

(2) A court convicting a person of an offence against subsection (1) of this section shall, in addition to any other penalty imposed in respect of that offence, impose a further penalty calculated at the rate of ten dollars in respect of each lamb in respect of which the offence is committed, irreducible in mitigation notwithstanding the provisions of any other Act.

Exemptions.

20. Nothing in section 19 of this Act applies to the slaughtering of a lamb where—

- (a) the lamb is slaughtered principally for consumption by the owner, his family or employees;
- (b) neither the carcass nor any portion thereof is sold for the purpose of human consumption; or
- (c) the slaughtering of the lamb is declared by the regulations to be exempt from the provisions of that section.

Sale of  
carcasses, etc.  
by Board,  
etc.

21. (1) Subject to this Act, the Board may—

- (a) slaughter or arrange for the slaughter of any lambs of which it becomes the owner; and
- (b) sell or arrange for the sale, within the State or elsewhere, of all lamb products obtained

from lambs delivered to it, to such persons and at such prices and on such terms as it thinks proper,

and may for that purpose exercise any of the powers and functions conferred on it by section 15 of this Act.

(2) The Board shall, so far as it is practicable to do so, classify or grade or cause to be classified or graded all edible lamb products obtained from lambs slaughtered by it or on its behalf.

(3) The Board may, in lieu of selling any offal or other prescribed kind of lamb products, enter into any arrangement whereby the offal or other lamb products are disposed of to other persons without payment therefor being made to the Board, if the disposal of the offal or other lamb products is made in consideration or part consideration for, or in payment or part payment of the cost of, services rendered to the Board in connection with the slaughtering or treatment of lambs or lamb products.

22. (1) Subject to this Act, the Board shall, out of the proceeds of lamb products disposed of by it under this Act and which were obtained from lambs delivered to it under section 16 of this Act, make payments to the persons by or for whom the lambs were delivered to the Board under this Act, in respect of the lambs so delivered on the basis of the net proceeds of the sale of all the lamb products of the same classification or grade obtained from lambs delivered to the Board during such periods as are determined by the Board for the purposes of this section, and the proportion of the lamb products obtained from lambs so delivered by those persons during each such period.

Payment for  
lambs  
acquired by  
Board.

(2) Notwithstanding anything contained in subsection (1) of this section, the Board may—

(a) with the approval of the Minister, make progress payments to each person by or for whom the lambs were delivered to the Board

under this Act, in respect of the lambs from time to time so delivered by him and at or about the time of each such delivery, calculated at such rate as the Board may determine; and

- (b) out of any surplus moneys in the hands of the Board at the settlement of final accounts in respect of any period determined under subsection (1) of this section, make final payments to each such person.

(3) Subject to subsection (4) of this section, the Board shall deduct from the proceeds of the sale of lamb products, or as the case may be, from any progress or final payments made by the Board under subsection (2) of this section—

- (a) the expenditure incurred, or estimated to be incurred, in or in connection with the marketing of lamb products, including the slaughtering, treatment, handling, storing, chilling, processing, packing, carriage, and insurance of lambs and lamb products;
- (b) the costs and expenses, or estimated costs and expenses, of the administration by the Board of this Act;
- (c) any sums necessary, or estimated to be necessary, to repay any advances made to the Board or moneys borrowed by the Board in accordance with this Act and any interest thereon.

(4) For the purposes of subsection (3) of this section, the amount of the costs and expenses, or the amount of the estimated costs and expenses, of the administration of this Act for any particular period determined by the Board under subsection (1) of this section shall be reduced by such part thereof as is attributable to any activities of the Board carried out during or in respect of that period under Part IV. of this Act.

(5) For the purposes of ascertaining the amount of any payment to be made by the Board under

subsection (1) or subsection (2) of this section, and generally for the purposes of this Act, the decision of the Board as to—

- (a) the quality or grade of any of the lamb products obtained from lambs delivered to the Board; and
- (b) the amounts to be deducted under this section and subsection (6) of section 16 of this Act,

shall be final and conclusive.

(6) Where the Board has accepted delivery of any lambs and the proceeds of the sale of all lamb products obtained therefrom are less than the expenditure of the kind referred to in paragraph (a) of subsection (3) of this section in respect of the lambs, the amount of the deficiency is recoverable by the Board from the person by or on whose behalf the lambs were so delivered as a debt due to the Board, in any court of competent jurisdiction.

(7) Where a person who gave notice to the Board of his intention to deliver a number of lambs to the Board fails to deliver any lambs at the time specified in the notice, or delivers at that time a substantially smaller number of lambs than that specified in his notice, any expense incurred by the Board by reason of that failure or the delivery of the smaller number, is recoverable from that person by the Board as a debt due to it, in any court of competent jurisdiction.

(8) The Board may pay or cause to be paid to persons who have delivered lambs to it, the amounts paid or payable to the Board in respect of the skins of those lambs, and in that event the amounts so paid or payable to the Board shall not be regarded as forming part of the proceeds of the sale of lamb products for the purposes of subsections (1), (2) and (3) of this section.

## PART IV.—MARKETING OF HOGGET AND MUTTON.

Interpreta-  
tion.

23. In this Part, unless the contrary intention appears—

“sheep” does not include a lamb or lambs;

“sheep products” includes any carcass, skin or offal, or any part thereof, obtained from any sheep delivered to the Board, and also includes any sheep which is disposed of, live, by the Board after it has been delivered to the Board.

Authority of  
the Board to  
deal in sheep  
other than  
lambs.

24. (1) The Minister may from time to time, on the recommendation of the Board, by notice published in the *Government Gazette*, declare that during such period or periods as are specified in the notice, the Board is authorised to accept the delivery of sheep, and the Board may, subject to the succeeding provisions of this Part, exercise in relation to sheep delivered to it during such a period, and sheep products obtained therefrom, all or any of the powers and functions conferred on it by this Act in relation to lambs and lamb products.

(2) Nothing in this Part shall be construed—

(a) as requiring the Board to accept delivery of any sheep except where the Board is obliged so to do pursuant to subsection (5) of section 16 of this Act as applied by section 25 of this Act; or

(b) as preventing any person from slaughtering any sheep which have not been delivered to the Board.

Application  
of other  
provisions of  
this Act to  
sheep and  
sheep  
products.

25. (1) Without limiting the operation of section 24 of this Act, but subject to subsections (2) and (3) of this section, the following provisions of this Act, namely—

(a) paragraphs (e), (f) and (h) of subsection (1) of section 15;

- (b) subsections (1), (2), (5), (6), (7) and (8) of section 16;
  - (c) sections 17, 18 and 21;
  - (d) subsections (1), (2), (3), (5), (6), (7) and (8) of section 22; and
  - (e) sections 26, 28 and 31,
- apply, with such modifications and adaptations as are necessary, to and in relation to sheep and sheep products, and the exercise of the powers, functions and duties of the Board in respect thereof, as if the references in those provisions to lamb and lamb products were references to sheep and sheep products, respectively.

(2) In applying, pursuant to subsection (1) of this section, the provisions of paragraph (b) of subsection (3) of section 22 of this Act, the references therein to costs and expenses, or the estimated costs and expenses, of the administration by the Board of this Act shall be read as referring only to such of those costs and expenses or such of those estimated costs and expenses, as are attributable to the activities carried out by the Board under this Part.

(3) The Board shall, so far as is practicable, cause all records and accounts relating to sheep and sheep products to be kept separately from those kept by it relating to lamb and lamb products, and where any expenditure is incurred, or moneys are received, by it in the course of any act or transaction which concerns both sheep and lambs, or both sheep products and lamb products, that expenditure or those moneys received shall be apportioned accordingly in such manner as the Board considers proper.

#### PART V.—MISCELLANEOUS.

26. (1) Where the Board has in good faith and without negligence made any payment—

- (a) to a person delivering or causing to be delivered any lamb to the Board;

Non-liability  
of Board.

- (b) to any other person entitled or claiming to be entitled through such a person who has delivered or caused to be delivered any lamb to the Board; or
- (c) to any other person on the order of such a person who has delivered or caused to be delivered any lamb to the Board,

the Board shall not be answerable to any person in respect of the payment, or any part thereof, or to any action or proceeding whatsoever for damages or otherwise in respect thereof.

(2) For the purpose of this section any person who is believed by the Board or its representative, on reasonable grounds, to be the person by whom any lamb was delivered or caused to be delivered to the Board, shall be deemed to be the person by whom the lamb was so delivered or caused to be so delivered.

(3) This section shall not affect the rights *inter se* of any parties claiming adversely to one another in respect of any such payment or any part thereof.

Accounts  
and Audit.

27. (1) The Board shall keep full accounts of all money received and paid by it and of the purposes for which the money was so received or paid.

(2) The Auditor General shall at least annually audit the accounts of the Board for the preceding financial year and every member, officer and employee of the Board shall give the Auditor General and his officers all the information relating to such accounts which he or they require and shall upon request produce to the Auditor General and his officers any books, vouchers, or other documents relating to such accounts and do all things necessary to enable the audit to be made.

(3) The Board shall pay to the Treasurer of the State such reasonable sum for the audit as the Treasurer fixes.

28. All expenditure of the Board and all claims against the Board shall be a charge upon the proceeds of lamb products disposed of by the Board which to the necessary extent shall be deemed part of the Board's funds accordingly.

Expenditure  
a charge on  
proceeds of  
sale of lamb  
products.

29. (1) The Board shall make and submit a yearly report of its proceedings to the Minister together with a true copy of the accounts as then last audited and with a copy of the Auditor General's report thereon, and on receipt thereof the Minister shall cause copies of the annual report and of the accounts with the Auditor General's report to be laid before both Houses of the Parliament.

Annual  
reports.

(2) The Minister may at any time request the chairman to furnish him with—

- (a) any records of the proceedings of the Board kept pursuant to subsection (6) of section 10 of this Act;
- (b) any other particulars or information concerning the activities of the Board,

and the chairman shall comply with any such request.

30. (1) Any proceedings, whether civil or penal, may be taken in the name of the Board by the manager or by any officer of the Board authorized in that behalf by the Board.

How legal  
proceedings  
taken.

(2) No proof shall be required of the appointment of the manager or any officer as an officer of the Board, or of the authority of the manager or officer to take civil or penal proceedings in the name of the Board but the averment on the process that the manager or an officer of the Board is so authorized shall be deemed to be conclusive proof of the fact.

31. (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

Regulations

necessary or convenient to be prescribed for giving effect to or achieving the objects of this Act and facilitating the exercise by the Board of its powers, functions and duties under this Act.

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

- (a) prescribing the producers eligible to vote at an election of a member referred to in paragraph (a) of subsection (1) of section 7 of this Act;
  - (b) requiring producers, or persons dealing or trafficking in lambs or lamb products, or persons having the management or control of lands or premises used for or in connection with the slaughtering of lambs, or the treatment, storage or chilling of lamb products or any other process connected therewith, to furnish returns containing such information as the Board may consider necessary;
  - (c) for enabling the Board or any person authorized by it to inspect any records or accounts relating to lambs or lamb products, or to land or premises referred to in paragraph (b) of this subsection;
  - (d) for enabling the Board to appoint inspectors, and defining the powers of inspectors so appointed; and
  - (e) imposing penalties not exceeding one hundred dollars for offences against the regulations.
-