

MARKETING OF EGGS.

No. 114 of 1970.

AN ACT to amend the Marketing of Eggs Act, 1945-1969.

[Assented to 10th December, 1970.]

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

Short title
and citation.

1. (1) This Act may be cited as the *Marketing of Eggs Act Amendment Act, 1970*.

Reprinted
in Vol 17
of the
Reprinted
Acts, as
amended
by Acts
Nos. 14
of 1960,
23 of 1965
and 110 of
1969.

(2) In this Act the Marketing of Eggs Act, 1945-1969 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Marketing of Eggs Act, 1945-1970.

2. The long title to the principal Act is amended by adding after the word "the" in line two, the passage, "production,".

Long title amended.

3. Section 2 of the principal Act is amended by adding after the passage, "PART IV., ss. 21 to 32—MARKETING OF EGGS." the passage, "PART IVA., ss. 32A to 32N—LICENSING OF PRODUCERS.".

S. 2 amended.

4. Section 4 of the principal Act is amended—

S. 4 amended.

(a) by adding after the section number, "4." the subsection designation "(1)"; and

(b) by adding at the end thereof the following subsection—

(2) Notwithstanding anything contained in subsection (1) of this section or any proclamation made thereunder, the provisions of Part IVA of this Act apply to the whole of the State.

5. The principal Act is amended by adding immediately after section 32 the following heading and section—

Heading and s. 32A added.

PART IVA.—LICENSING OF PRODUCERS.

32A. In this Part unless the contrary intention appears—

Interpretation.

"first licensing year" means the licensing year that commences on the date fixed by notice under section thirty-two B of this Act;

"fowl" means a female domesticated fowl that is not less than six months of age;

"keep" in relation to any fowls means own or control the fowls;

"license" means a license granted under the provisions of this Part;

“licensing year” means the period of twelve months commencing on the date fixed by notice under section thirty-two B of this Act, or any succeeding period of twelve months thereafter. .

S. 32B
added.

6. The principal Act is amended by adding a section as follows—

Commence-
ment date.

32B. The Minister may, by notice published in the *Government Gazette*, fix a date, being a date not less than three months after the publication of the notice, as the date on which the provisions of sections thirty-two K and thirty-two L of this Act shall take effect. .

S. 32C
added.

7. The principal Act is amended by adding a section as follows—

Invitation
for applica-
tions for
licenses.

32C. (1) The Board shall—

- (a) within fourteen days of publication of the notice referred to in section thirty-two B of this Act; and
- (b) not less than two months before the first day of any licensing year other than the first licensing year,

cause to be published on at least two occasions in a newspaper circulating throughout the State, a notice—

- (c) inviting applications to be made to the Board for the grant of licenses; and
- (d) setting out the manner and form in which, and the date before which, applications are to be made for licenses under this Part.

(2) Any person may, by application served on the Board, apply for the grant to him of a license.

(3) An application made under this section shall not be considered by the Board unless—

- (a) the application is made in accordance, or substantially in accordance, with the manner and form specified in the notice published pursuant to paragraph (b) of subsection (1) of this section;
- (b) it is accompanied by a statutory declaration verifying all statements and matters set out in, or submitted with, the application; and
- (c) it is received by the Board on or before the date fixed by the notice for the making of such an application.

8. The principal Act is amended by adding a section as follows—

S. 32D added.

32D. (1) Before the Board considers any application made under section thirty-two C of this Act in respect of a licensing year, the Board shall submit to the Minister a statement setting out—

Bases or principles on which applications to be determined.

- (a) the number of eggs which it considers will be necessary to meet the requirements of the Board in that licensing year and the number of fowls necessary to produce that number of eggs; and
- (b) its recommendations as to the bases or principles on which applications for licenses in respect of that licensing year should be determined.

(2) The Minister shall, after considering a statement submitted to him under subsection (1) of this section in respect of a licensing year,

furnish the Board with directions in writing, not inconsistent with this Act, as to the bases or principles on which the Board is to determine applications for licenses made to it in respect of that licensing year. .

S. 32E
added.

9. The principal Act is amended by adding a section as follows—

Determina-
tion of
applications.

32E. (1) Subject to subsection (2) of section thirty-two C of this Act and to the succeeding provisions of this section, the Board shall consider any application made to it for a license in respect of a licensing year and shall either grant a license to the applicant or refuse the application and shall in either case advise the applicant in writing of its decision.

(2) Where the Board grants a license pursuant to subsection (1) of this section the Board shall cause to be clearly endorsed on the license—

- (a) the name and address of the person to whom it is granted, and the licensing year for which the license has been granted; and
- (b) the number of fowls which the license authorises the holder thereof to keep during the licensing year for which it is granted,

and, subject to section thirty-two J of this Act, a license authorises the person to whom it is so granted or, if the license is transferred to another person in accordance with this Part, that other person, as the case requires, to keep during the licensing year for which the license is granted the number of fowls endorsed on the license.

(3) Without limiting the authority of the Board to grant a license for the first licensing year to any other person in accordance with subsection (6) of this section, the Board shall not refuse to grant a license for that licensing year to a person who—

- (a) at any time during the period of twelve months ending on the thirty-first day of March, nineteen hundred and seventy, kept more than twenty fowls from which he produced eggs for sale, and has continued, since that date, to carry on the business of producing eggs for sale; or
- (b) after the thirty-first day of March, nineteen hundred and seventy, acquired land on which another person was, on that day, producing eggs for sale, and has since acquiring the land, himself continued to carry on the business of producing eggs for sale.

(4) Subject to subsection (5) of this section, the Board shall not grant a license for any licensing year, other than the first licensing year, except to a person who, at the end of the immediately preceding licensing year, held a license for that lastmentioned licensing year.

(5) Where the Board proposes to grant licenses for a licensing year authorising all of the holders thereof to keep, in the aggregate, a number of fowls exceeding that authorised to be kept by all of the licenses granted for the immediately preceding licensing year, the Board may grant licenses to persons who did not hold licenses granted for the immediately preceding licensing year but so that the total of the number of fowls authorised to be kept by those persons does not exceed one-quarter of the difference between the total of the number of fowls authorised to be kept by all of the holders of licenses granted for the immediately preceding licensing year and the total number of fowls

that all of the holders of licenses for the ensuing licensing year will be authorised to keep.

(6) In exercising its powers under this section in respect of a licensing year, the Board shall give effect to the directions given to it by the Minister under subsection (2) of section thirty-two D of this Act in respect of that licensing year. .

S. 32F
added.

10. The principal Act is amended by adding a section as follows—

Supple-
mentary
licenses.

32F. (1) Where the Board is of opinion that the number of eggs likely to be produced during any part of a licensing year will be insufficient to meet its requirements for that part of the licensing year, the Board may, with the approval of the Minister, grant to the holders of licenses for that licensing year supplementary licenses in accordance with the provisions of this section.

(2) The Board shall not grant supplementary licenses except—

- (a) in accordance with the approval of the Minister; and
- (b) to persons who are holders of licenses for the licensing year in which the supplementary licenses are granted,

and a person to whom a supplementary license is so granted is thereby authorised, during the period specified for the purpose in the supplementary license, to keep such additional number of fowls as are endorsed on the supplementary license. .

S. 32G
added.

11. The principal Act is amended by adding a section as follows—

Transfers.

32G. (1) Subject to subsection (2) of this section a license or a supplementary license may, with the prior approval in writing of the Board, be transferred from one person to another.

(2) The Board shall not approve of the transfer of a license or a supplementary license at any time within the period of two years commencing on the date fixed by proclamation under section thirty-two B of this Act unless the Minister has first authorised the Board in writing to so approve of the transfer. .

12. The principal Act is amended by adding a section as follows— S. 32H
added.

32H. (1) Where a person who applied for a license considers that the Board failed, in considering his application, to comply with, or give effect to, the directions given to the Board in that regard by the Minister under subsection (2) of section thirty-two D of this Act, he may, within twenty-eight days of receiving from the Board written advice of the decision of the Board, appeal in writing on that ground only to the Minister against— Appeals.

(a) the refusal of the Board to grant him a license; or

(b) the number of fowls endorsed on the license granted to him by the Board,

and the person shall set out in his appeal the reasons on which the appeal is made.

(2) The Minister shall consider every appeal made to him in accordance with subsection (1) of this section and may confirm, vary or set aside the decision of the Board, and the decision of the Minister is final and not subject to any appeal. .

13. The principal Act is amended by adding a section as follows— S. 32I
added.

32I. No action, claim or demand whatsoever shall lie or be made or allowed by or in favour of any person against— Protection
against
actions.

(a) Her Majesty;

- (b) the State;
- (c) the Minister;
- (d) the Board; or
- (e) any member, officer or employee of the Board,

with respect to anything done for the purpose of carrying out or giving effect to the provisions or objects of this Part of this Act. .

S. 32J
added.

14. The principal Act is amended by adding a section as follows—

Cancellation
of
licenses.

32J. (1) Where the Board is satisfied that the holder of a license or supplementary license—

- (a) has been granted the license or supplementary license erroneously or as a result of any false or misleading statement or representation; or
- (b) has withheld information or has provided false information concerning a license or supplementary license,

the Board may by notice in writing advise the person specified in the notice that on a day, being not less than fourteen days from the day of sending the notice, the Board intends for reasons stated in the notice to consider whether or not that license or supplementary license should be cancelled or varied as specified in the notice and that if he so desires he may submit reasons in writing opposing the proposed cancellation or variation.

(2) On the day specified in the notice, or on any later day to which the matter is adjourned by the Board, the Board shall decide, after considering all objections, whether or not to cancel or vary that license or supplementary license.

(3) A person whose license or supplementary license has been cancelled or varied by the Board under subsection (2) of this section may appeal in writing to the Minister against the decision of the Board and the Minister may confirm, vary or set aside the decision of the Board. .

15. The principal Act is amended by adding a section as follows— S. 32K added.

32K. Subject to section thirty-two L of this Act, a person shall not at any time during a licensing year— Offences.

(a) keep more than twenty fowls for the purpose of producing eggs for sale unless he is at that time the holder of a license granted under this Part for that licensing year; or

(b) keep, for the purpose of producing eggs for sale, a number of fowls greater than the number of fowls which he is authorised, by virtue of a license or a license and a supplementary license, as the case may be, granted under this Part for that licensing year, to keep at that time.

Penalty: For a first offence, a fine not exceeding two hundred dollars and for a second or subsequent offence, a fine not exceeding four hundred dollars. .

16. The principal Act is amended by adding a section as follows— S. 32L added.

32L. (1) In this section "breeding fowl" means a fowl which is kept for the purpose of producing hatching eggs. Breeding fowls.

(2) Nothing in paragraph (a) of section thirty-two K of this Act requires a person who at any time during a licensing year owns or keeps breeding fowls only, to be the holder of a license granted under this Part.

(3) Where a person who is the holder of a license granted under this Part also keeps breeding fowls, any breeding fowls kept by him shall not be taken into account for the purposes of paragraph (b) of section thirty-two K of this Act.

(4) Notwithstanding any other provision of this Part, a person who is or has been carrying on the business of producing hatching eggs may apply to the Board for the consent of the Board in writing for him to continue to keep any fowls which have been kept by him as breeding fowls, notwithstanding—

- (a) that he is not the holder of a license granted under this Part; or
- (b) that he is the holder of such a license, but that the number of fowls endorsed on his license will be exceeded if he ceases to keep those breeding fowls for the production of hatching eggs.

(5) Where the Board gives its consent to a person in accordance with subsection (4) of this section it shall specify therein the period for which its consent is to have effect, but the Board may, in writing, at any time while its consent has effect—

- (a) extend the period for which its consent is to have effect; or
- (b) revoke its consent.

(6) A person who keeps breeding fowls shall—

- (a) within seven days of the first day of each of the months of January, April, July and October, in each year, furnish the Board with a statement setting out the place at which the fowls are kept and the number of fowls so kept by him on each of those days;

- (b) permit any member or officer or employee of the Board or any inspector to enter upon and inspect any place at or on which he keeps breeding fowls; and
- (c) furnish to the Board such other information relevant to, or concerning, his business of the production of hatching eggs for sale as the Board requires. .

17. The principal Act is amended by adding a section as follows—

S. 32M
added.

32M. (1) The Board may—

Board may
obtain
information,
etc.

- (a) obtain any information it considers necessary or expedient for exercising its powers and performing its duties under this Part;
- (b) obtain assistance or advice from any person or organisation;
- (c) causing any place on which fowls or breeding fowls are kept to be inspected either by the members of the Board or by any person specifically authorised in that behalf by the Chairman of the Board.

(2) The Board shall furnish the Minister with such advice, reports, and information concerning licenses and supplementary licenses as the Minister requires from time to time. .

18. The principal Act is amended by adding a section as follows—

S. 32N
added.

32N. All matters to be considered by the Board or the Minister under or for the purposes of this Part shall, unless otherwise determined by the Board or Minister, as the case may be, be submitted in writing to the Board or the Minister, and no person shall be entitled to appear personally or by counsel before the Board or the Minister. .

Proceedings.