

Approved for Reprint, 13th August, 1975.

WESTERN AUSTRALIA.

# MARKETING OF EGGS.

9° and 10° Geo. VI., No. LVIII.

**No. 58 of 1945.<sup>1</sup>**

(Affected by Act No. 28 of 1948, s. 17.)

[As amended by Acts:

No. 19 of 1949, assented to 24/9/49;  
No. 50 of 1949, assented to 26/10/49;  
No. 18 of 1950, assented to 29/11/50;  
No. 5 of 1951, assented to 20/11/51;  
No. 42 of 1954, assented to 8/12/54;  
No. 50 of 1955, assented to 9/12/55;  
No. 33 of 1958, assented to 11/12/58;  
No. 14 of 1960, assented to 6/10/60;  
No. 23 of 1965, assented to 1/10/65;  
No. 110 of 1969, assented to 25/11/69;  
No. 114 of 1970, assented to 10/12/70;  
No. 37 of 1975,<sup>2</sup> assented to 16/5/75;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

**AN ACT to consolidate and amend the law relating to the production, marketing, sale, and disposal of eggs; to repeal the Marketing of Eggs Act, 1938, and the Act amending the same; and for other relative purposes.**

Long title.  
Amended by  
No. 114 of  
1970, s. 2.

[Assented to 5th February, 1946.]

BE it enacted—

1. This Act may be cited as the *Marketing of Eggs Act, 1945-1975*, and shall come into operation on a date to be fixed by proclamation.<sup>1</sup>

Short title  
and com-  
mencement.  
Amended by  
No. 37 of  
1975, s. 1.

<sup>1</sup> Came into operation 22nd March, 1946. See *Gazette* 22/3/46, p. 286.

<sup>2</sup> Came into operation 20th June, 1975. See *Gazette* 20/6/75, p. 1958.

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Act divided  
into Parts.  
Amended by  
No. 114 of  
1970, s. 3.

## 2. This Act is divided into Parts as follows:—

PART I., ss. 3 to 6—PRELIMINARY.

PART II., ss. 7 to 18—THE WESTERN AUSTRALIAN  
EGG MARKETING BOARD.

*Division 1, ss. 7 to 16—Constitution and Pro-  
ceedings of Board.*

*Division 2, ss. 17 and 18—General Powers of  
Board.*

PART III., ss. 19 and 20—REGISTERED AGENTS AND  
LICENSED COLLECTORS.

PART IV., ss. 21 to 32—MARKETING OF EGGS.

PART IVA., ss. 32A to 32N—LICENSING OF  
PRODUCERS.

PART V., ss. 33 to 40—MISCELLANEOUS.

## PART I.—PRELIMINARY.

Acts  
repealed.

3. The following Acts are hereby repealed,  
namely—

(a) the Marketing of Eggs Act, 1938 (No. 51  
of 1938), and

(b) the Marketing of Eggs Act Amendment  
Act, 1939 (No. 55 of 1939).

Operation.  
Amended by  
No. 114 of  
1970, s. 4.

4. (1) Subject as hereinafter provided, this Act  
shall operate and have effect throughout the State:

Provided that the Governor may, on the  
recommendation of the Minister, from time to time  
by proclamation exempt any part of the State  
defined in such proclamation from the operation of  
this Act, and may, on the like recommendation, by  
proclamation revoke or vary any such first-  
mentioned proclamation.

(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. (1) In this Act, unless the context otherwise requires—

Interpretation.  
Amended by  
No. 50 of  
1955, s. 2;  
No. 110 of  
1969, s. 2;  
No. 37 of  
1975, s. 3.

“Board” means the Western Australian Egg Marketing Board constituted under this Act;

“commercial producer” means a producer who owns at least two hundred and fifty head of adult female poultry and who has delivered on his own account at least three thousand dozen eggs to the Board in the immediately preceding period of twelve months;

Cf. W.A.  
No. 51 of  
1938, s. 2 (1).  
S.A. No. 41  
of 1941, s. 2.

“eggs” means eggs of fowls or ducks, and the yolks and whites of such eggs in any of the following forms, namely:—eggs in shell, liquid whole eggs, liquid whites of eggs, liquid yolks of eggs, dried whole eggs and dried separated whites and yolks of eggs;

“inspector” means an inspector appointed or acting under the authority of this Act;

“licensed collector” means a person licensed under this Act as a collector of eggs;

“poultry” means fowls and ducks;

“producer” means a person who owns or controls twenty adult female fowls and/or ducks and sells the eggs or any of the eggs produced thereby. For the purpose of the definitions contained in this section a fowl or duck shall be regarded as an adult if it has commenced laying eggs or is six months of age, whichever sooner happens;

“public notice” means a notice published in the *Government Gazette* and in a newspaper published at Perth;

“registered agent” means agent of the Board for the time being registered under this Act;

“sell” includes barter and/or exchange and “sale” has a corresponding meaning;

“sale by retail” means sale in such quantity and on such conditions, if any, as are declared from time to time by the Board and published from time to time in the *Gazette*.

(2) For the purposes of this Act, all fowls and ducks on any premises shall, unless the Board in writing otherwise directs, be conclusively presumed to be kept by the occupier of those premises.

(3) For the purposes of the interpretation “commercial producer” contained in subsection (1) of this section, any eggs sold by a producer pursuant to a permit granted by the Board under section twenty-three of this Act to him or to the purchaser of the eggs shall be deemed to have been delivered by that producer to the Board.

Construc-  
tion.  
W.A. No. 51  
of 1938, s. 2.  
S.A. No. 41  
of 1491, s. 3.

6. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative powers of the Parliament of this State, to the intent that, where any provision therein would, but for this section, be construed as being in excess of those powers, it shall nevertheless be deemed to be validly enacted to the extent to which it is not in excess of those powers.

PART II.—THE WESTERN AUSTRALIAN EGG  
MARKETING BOARD.

*Division 1—Constitution and Proceedings of Board.*

7. (1) For the purposes of this Act, a Board to be known as "The Western Australian Egg Marketing Board" is hereby constituted.

Constitution of Board.  
Amended by No. 50 of 1949, s. 3; No. 110 of 1969, s. 3.

(2) The Board shall consist of six members appointed by the Governor.

Cf. W.A. No. 51 of 1938, s. 3.  
S.A. No. 41 of 1941, s. 4.

(3) Subject to the provisions of the next succeeding subsection, of the said six members—

(a) [*Repealed by No. 110 of 1969, s. 3.*]

(b) two shall be persons nominated by the Minister to represent the consumers, one of whom at least shall be a person of mercantile and commercial experience in the marketing of eggs;

(c) three shall be persons, who are commercial producers and are elected by the commercial producers for appointment by the Governor as members of the Board;

(d) one shall be a person nominated by the Minister who is not engaged or financially interested in the business of producing or selling eggs and who shall be the Chairman of the Board.

(4) A person who is a member of the Board by virtue of paragraph (c) of subsection (3) of this section shall forfeit his office if for any continuous period of three months he fails to hold the qualifications required for his election.

8. (1) The election of the elective members of the Board shall be held and conducted in such manner and at such times as shall be prescribed by regulations.

Election of elective members.  
W.A. No. 51 of 1938, s. 3.

(2) The expenses incurred in connection with the election of the elective members of the Board shall be a charge upon, and shall be paid out of moneys from time to time in the hands of the Board for the purposes of this Act.

Board a body corporate.  
W.A. No. 51 of 1938, s. 5.  
S.A. No. 41 of 1941, s. 5.

9. The Board shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued, and acquire and hold real and personal property under the name of the Western Australian Egg Marketing Board.

Board not to represent the Crown.  
W.A. No. 51 of 1938, s. 6.  
S.A. No. 41 of 1941, s. 6.

10. The Board shall not, except in relation to any matter in which the Board is specially authorised by the Governor to act on behalf of the Crown, be the agent or servant or the representative of the Crown.

Remuneration of members of Board.  
Amended by No. 5 of 1951, s. 3.  
W.A. No. 51 of 1938, s. 7.  
S.A. No. 41 of 1941, s. 13.

11. (1) The members of the Board and their deputies shall be entitled to be paid such remuneration and expenses as are approved by the Governor.

(2) Such remuneration and expenses shall be paid out of the moneys from time to time in the hands of the Board for the purposes of this Act.

Terms of office.  
Repealed and re-enacted by No. 110 of 1969, s. 4; amended by No. 37 of 1975, s. 4.

12. (1) Each member of the Board including the Chairman shall hold office subject to good behaviour for a period of three years from the date of his appointment, and shall be eligible for re-nomination or re-election as the case may be.

(2) [*Repealed by No. 37 of 1975, s. 4.*]

Appointment of deputies.  
Added by No. 5 of 1951, s. 4.

12A. (1) The Minister may, in respect of each member of the Board, subject to the provision of the second sentence in subsection (2) of section fifteen

of this Act, appoint a person representative of the same interests as the member to be a deputy of that member.

(2) A person so appointed shall, in the event of the illness or absence of the member of whom he is the deputy, have all the powers of that member during his illness or absence.

(3) Neither the appointment of a person as a deputy nor any act done by him in that capacity shall be questioned in any proceedings on the ground that the occasion for his appointment had not arisen or had ceased.

13. (1) The office of a member shall become vacant if he—

Casual  
vacancies.  
W.A. No. 51  
of 1938,  
s. 3 (7),  
S.A. No. 41  
of 1941, s. 3.

- (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;
- (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.

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Proceedings  
of Board,  
not  
invalidated  
by vacancies  
or defects.  
W.A. No. 51  
of 1938, s. 8.  
S.A. No. 41 of  
1941, s. 9.

14. (1) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of members of the Board not being complete at the time of such act or proceeding.

(2) All acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment or qualification of any member thereof, be as valid as if such member had been properly appointed and qualified.

Powers of  
Board how  
exercised.  
W.A. No. 51  
of 1938, s. 9.  
S.A. No. 41  
of 1941, ss. 10  
and 11.

15. (1) All powers vested in the Board may be exercised by a majority of the members present at any meeting duly held at which a quorum is present, and all questions shall be decided by a majority and by open voting.

(2) The chairman shall preside at every meeting of the Board at which he is present. If the chairman is absent from a meeting the other members of the Board present shall select one of their number to act as chairman at that meeting.

(3) The chairman shall have a deliberative vote only, and if the numbers are equally divided on any question, such question shall be deemed to be resolved in the negative.

(4) Three members of the Board shall form a quorum.

Meetings of  
the Board.  
S.A. No. 41  
of 1941, s. 12.

16. (1) The first meeting of the Board after the passing of this Act shall be convened by the chairman, and thereafter meetings shall be held at the times and places determined by the Board: Provided that the chairman may, on reasonable notice to members of the Board, call a meeting at any time.

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



Division 2—General Powers of Board.

17. (1) The Board may appoint a secretary, such inspectors as the Minister may approve and clerks and other officers and employees as it requires to assist it—

Officers of Board.  
Amended by No. 50 of 1955, s. 3.  
S.A. No. 41 of 1941, s. 14.

- (a) in the administration of this Act;
- (b) in the collection, handling, examination, grading, treatment, storage, distribution and sale of eggs, and in the fixing from time to time of the maximum price at which each respective grade of eggs may be sold by retail, and other services incidental or auxiliary to any of the foregoing matters.

(2) With the consent of the Minister administering any Department of the Public Service of the State, the Board may, on any terms agreed between itself and the Minister, make use of the services of any person employed in that department.

(3) The salaries, wages and other expenses payable to persons employed or otherwise engaged by the Board shall be charged upon and be payable out of the moneys from time to time in the hands of the Board for the purposes of this Act

18. (1) The Board may for the purposes of carrying out the duties and functions imposed on it by the other provisions of this Act—

General powers of Board.  
Amended by No. 23 of 1965, s. 2; No. 37 of 1975, s. 5.  
S.A. No. 41 of 1941, ss. 17 and 18A.

- (a) buy, lease, or sell any property;
- (b) enter into any contract;
- (c) borrow money and mortgage or charge any of its property as security for the repayment of any money borrowed;
- (d) delegate any of its functions and revoke any such delegation;
- (e) establish or maintain premises for receiving, handling, grading, treatment, storage or sale of eggs;

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- (f) dry any eggs, whether belonging to itself or other person, and carry out any pulping or processing incidental to the drying of eggs;
- (g) contract or arrange for the pulping, drying or processing of any eggs;
- (h) purchase, hire, construct, erect and maintain any premises, machinery, plant and equipment required for any pulping, drying, packing or processing which the Board has the power to carry out;
- (i) engage in the manufacture of cases, egg fillers, containers, tins, crates and cartons;
- (j) undertake printing and publishing, transport and carrying services;
- (k) exercise the functions usually exercised by shipping agents;
- (l) establish, maintain and contribute to a scheme to make financial provision in respect of the retirement, invalidity or death of such officers and employees of the Board as become members of that scheme, or contribute to any such scheme controlled otherwise than by the Board;
- (m) make loans or advances to officers and employees of the Board for the purpose of facilitating the purchase by such persons of motor vehicles to be utilised on the business of the Board.

(2) The Board is authorised and required to perform the functions and carry out the duties that are to be performed and carried out by it under any arrangement entered into between the Commonwealth and State pursuant to—

- (a) section five of the Poultry Industry Levy Collection Act 1965, of the Commonwealth Parliament as amended from time to time; or
- (b) any such Act substituted for the Poultry Industry Levy Collection Act 1965.

PART III.—REGISTERED AGENTS AND LICENSED COLLECTORS.

19. (1) For the purposes of this Act the Board may register, subject to such conditions as may be attached by the Board, suitable persons as its agents.

Registered Agents of Board. S.A. No. 41 of 1941, s. 19.

(2) Any person desiring registration as an agent of the Board shall apply in writing to the Board for such registration, and give the Board such information relevant to his application as the Board requires.

(3) The Board shall have a discretion to grant or refuse registration to any applicant therefor.

(4) The registration of an agent shall remain in force until it is cancelled or the agent surrenders it or dies.

(5) The Board may cancel the registration of any agent if he has failed in any way to comply with this Act, or with the conditions attached to his registration, or the regulations or to carry out any of his duties as an agent of the Board, or if he becomes bankrupt or in any way as a debtor takes the benefit of the laws relating to bankruptcy.

(6) Every registered agent shall be entitled to take deliveries of eggs from producers on behalf of the Board, and shall perform such other duties and functions on behalf of the Board as the Board directs.

20. (1) For the purposes of this Act the Board may license suitable persons to be collectors of eggs.

Licensed collectors. S.A. No. 41 of 1941, s. 20.

(2) Any person desiring a license as a collector of eggs shall apply in writing to the Board for a license and shall give the Board such information relevant to the application as the Board requires.

(3) The Board shall have a discretion to grant or refuse a license to any applicant therefor.

(4) A license under this section shall remain in force until it is cancelled, or the collector surrenders it, or dies.

(5) The Board may cancel the license of any licensed collector who has failed in any way to comply with this Act or the regulations, or to carry out any of his duties as a collector of the Board, or who has become bankrupt or in any way, as a debtor, has taken the benefit of the laws relating to bankruptcy.

(6) Any license granted under this section may contain terms and conditions as to—

- (a) the area within which the licensed collector named therein may collect eggs;
- (b) the registered agents of the Board to whom the licensed collector named therein must deliver any eggs collected by him;
- (c) the rights, duties and liabilities of the said licensed collector in relation to the collection, transport and disposal of eggs.

(7) A licensed collector who contravenes or fails to observe any term or condition of his license shall be guilty of an offence.

(8) A licensed collector shall not be the agent of the Board for the purpose of collecting eggs from producers and transporting and delivering them to registered agents of the Board.

(9) A licensed collector shall be entitled to be paid by the Board such sum for his services in and about the collection, transport and delivery of eggs as the Board fixes.

(10) Subject to any directions given by the Board and to the terms of his license a licensed collector may deliver any eggs collected by him to such registered agents of the Board as he thinks proper.

PART IV.—MARKETING OF EGGS.

21. (1) The Board may by a public notice fix a day (in this section called "the appointed day") on and after which every producer must comply with the requirements of this Act as to the sale and delivery of eggs.

Duty to sell and deliver eggs to Board.  
W.A. No. 51 of 1938, s. 11.  
S.A. No. 41 of 1941, s.21.

(2) On or after the appointed day a producer shall not sell or deliver any eggs to any person other than the Board and a person other than the Board shall not purchase or take delivery of any eggs from a producer: Provided that the foregoing provision of this subsection shall not apply to any eggs sold or delivered as allowed under section twenty-three of this Act.

(3) The Board shall accept delivery of all eggs tendered to it pursuant to this Act if such eggs are of merchantable quality and comply with all requirements prescribed by regulation.

22. All eggs delivered to the Board by producers and accepted by the Board shall thereupon be vested in and become the absolute property of the Board freed and discharged from all mortgages, charges, liens, pledges, interests, trusts, contracts and encumbrances affecting them; and the rights and interests of every person to or in the eggs shall thereupon be converted into a claim for payment therefor in accordance with the provisions of this Act.

Effect of delivery of eggs to Board.  
W.A. No. 51 of 1938, s. 12.  
S.A. No. 41 of 1941, s. 22.

23. (1) The Board may grant a permit to any producer authorising him to sell eggs to a person or persons (not being the Board or a person holding a permit under subsection (3) of this section) subject to such conditions and restrictions as the Board determines.

Exemptions. Amended by No. 19 of 1949, s. 3.  
W.A. No. 51 of 1938, s. 11 (5).  
S.A. No. 41 of 1941, s. 23.

(2) A person holding a permit granted under subsection (1) of this section shall comply with the conditions and restrictions to which the permit is

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subject and may sell eggs in accordance with the terms of such permit, notwithstanding the provisions of section twenty-one of this Act.

(3) (a) The Board may grant a permit to any person authorising him to purchase eggs from producers who do not hold permits issued under this section, subject to such conditions and restrictions as the Board determines, but nothing in this section shall be taken to require any such person to purchase any eggs if he does not think fit to do so.

(b) Where a person is the holder of a permit he shall comply with the conditions and restrictions to which the permit is subject and a producer may sell to that person notwithstanding the provisions of section twenty-one of this Act.

(4) Where a producer produces or has produced eggs to which the notice referred to in section twenty-one of this Act or the permit referred to in this section applies, those eggs shall, for the purposes of this Act, be deemed to be or to have been vested in the producer until he sells or sold them or disposes or disposed of them.

(5) The Board may revoke or vary any permit or consent granted by it under this section and may vary the conditions and restrictions to which any permit or consent is subject.

(6) The Board may, by a public notice or, by written notice given to the producers thereby affected, in such cases and on such terms as may be prescribed exempt (either generally or in any particular case) from the operations of the last two preceding sections—

- (a) such producers of small quantities of eggs as the Board may think fit;
- (b) sales direct to local consumers or to retail vendors;
- (c) such eggs as the producer may require for his own use;

- (d) such eggs of his own as the producer may use for incubation in connection with his own business;
- (e) such other sales, purchases or transactions as may be prescribed,

and may at any time revoke or vary the conditions of such exemption.

(7) The Board's decision as to whether any specified person or article falls within the limits of any such exemption shall be final.

24. (1) Subject to subsection (2) of this section, a producer shall not, use in or in connection with any hotel, boarding house, restaurant, manufacturing business or other business (whether wholesale or retail) which is owned or conducted by him, eggs produced by any fowls or ducks owned by him or under his control.

Restrictions on use of eggs produced by certain producers.

(2) The Board may grant a permit to any producer for the purposes of removing the restrictions imposed by subsection (1) of this section. Such permit may be granted subject to any conditions which the Board may think fit to impose.

25. (1) Delivery of eggs to the Board shall be effected by delivering the eggs to any egg floor operated by the Board or to a registered agent of the Board.

Mode of delivery to Board.  
S.A. No. 41 of 1941, s. 24.

(2) The tendering of eggs by a producer or person on his behalf, to a registered agent direct or through a licensed collector for acceptance shall be *prima facie* evidence of an intention to deliver the eggs to the Board to be disposed of by the Board in accordance with this Act.

26. (1) As soon as practicable after the receipt of any eggs the Board shall issue to the producer a certificate in the prescribed form, certifying that the eggs have been delivered and that payment therefor is to be made to such person or his assignee.

Certificate to producer upon delivery.  
W.A. No. 51 of 1938, s. 11 (7).  
S.A. No. 41 of 1941, s. 26.

(2) The person entitled to a certificate under this section shall be—

- (a) the producer by whom the eggs were delivered; or
- (b) if the producer has notified the Board that the certificate is to be issued to any other person, that other person.

Issue of certificate to person other than producer.  
S.A. No. 41 of 1941, s. 25.

27. A producer may prior to or at the time of delivering eggs to the Board notify the Board that the eggs are delivered on behalf of some other person and that the certificate for the eggs is to be issued to that person.

Advances to producers on account of price.  
W.A. No. 51 of 1938, s. 11 (8).  
S.A. No. 41 of 1941, s. 29.

28. The Board may make or arrange for advances on account of eggs delivered and any payment made on account of such eggs may be made at such time or times and on such terms and conditions and in such manner as the Board may think fit.

Liens, Mortgages, etc.  
W.A. No. 51 of 1938, s. 13.

29. No person claiming any right or title, whether as owner of or as being entitled to any lien, mortgage, charge, encumbrance or other claim over any eggs delivered to the Board, shall have any claim against the Board on account thereof.

Sale of eggs by Board.  
W.A. No. 51 of 1938, s. 14.  
S.A. No. 41 of 1941, s. 27.

30. (1) Subject to this Act the Board may sell or arrange for the sale of all eggs of which it becomes the owner, to such persons and at such prices and on such terms as it deems proper.

(2) The Board may, before selling any eggs, arrange for them to be pulped, dried or otherwise processed on behalf of the Board or on behalf of the purchaser or the Board may carry out these operations itself if deemed expedient.

(3) In arranging for the selling or processing of any eggs the Board may, in particular, but without limiting the generality of the foregoing powers in this section—

- (a) appoint and employ such agents, servants and officers as may be necessary;



- (b) arrange with the Government of the Commonwealth, or the State, or with any bank, for financial assistance or accommodation, and give such security over its assets and property as it shall consider reasonable;
- (c) as far as practicable provide eggs for consumption within the State, and for the supply thereof during any period of shortage to those places within the State where any shortage is experienced;
- (d) make such arrangements as may be deemed necessary with regard to sales for export or for oversea ships' stores, or for consignment to other countries or States;
- (e) become, by the acquisition of shares, a shareholder in any incorporated company, or enter into any agreement with any Commonwealth authority, or person, any association of persons, whether corporate or unincorporate, or with egg marketing boards or corporations of any other States of the Commonwealth established under the laws of those States relating to the marketing of eggs with a view to procuring or joining with others in procuring the co-ordination and regulation of the control of the marketing of eggs both within and outside the Commonwealth.

Provided that the power conferred by this paragraph shall not be exercised without the approval of the Governor.

31. (1) The Board shall, unless in any case it is inconvenient or impracticable to do so, grade or cause to be graded all eggs delivered to it. The grades of eggs and the characteristics of the eggs of each grade shall be as prescribed by regulations made under the Agricultural Products Act, 1929-1940.<sup>1</sup>

Grading.  
Amended by  
No. 14 of  
1960, s. 2.  
S.A. No. 41 of  
1941, s. 28.

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<sup>1</sup> Now Agricultural Products Act, 1929-1974.

(2) The price paid by the Board to producers for eggs which have been graded, shall vary according to the grade of the eggs.

(3) The Board may make premium payments to producers for eggs sold to the Board having characteristics or qualities which, in the opinion of the Board, will assist in or improve the marketing of eggs both on markets within and outside the State.

Board has power to fix maximum prices for sale of eggs by retail.  
Added by No. 50 of 1955, s. 4.  
Cf. No. 27 of 1946, s. 26 (1) (J).

**31A.** The Board is hereby authorised from time to time to fix the maximum price at which each respective grade of eggs may be sold by retail, and is authorised to determine, from time to time, what constitutes sale of eggs by retail.

Offence.  
Added by No. 50 of 1955, s. 4.  
Cf. s. 37 (2) as to penalty.

**31B.** Where the Board, by notice published in the *Gazette*, fixes the maximum price at which a grade of eggs may be sold by retail and declares what constitutes sale by retail, a person who sells or attempts to sell by retail or offers for sale by retail, eggs of that grade at a price greater than the maximum price so fixed, commits an offence.

Payment to producers.  
Amended by No. 19 of 1949, s. 4; No. 37 of 1975, s. 6.

**32.** (1) Subject to this Act the Board shall, out of the proceeds of eggs disposed of by it under this Act, make payments to each producer of the eggs delivered to the Board, in respect to the eggs delivered by him, on the basis of the net proceeds of the sale of all the eggs delivered to and sold by the Board during or covering such period as the Board may determine, and the proportion of such eggs so delivered by such producer during such period.

Cf. W.A. No. 51 of 1938, s. 15. S.A. No. 41 of 1941, s. 30.

(2) For the purpose of ascertaining the net price to be paid to the producers of eggs delivered to the Board, and generally for the purpose of this Act, the Board's decision as to the quality or standard of such eggs, the method of determining the dockages or deductions, cost of freight and other charges, and all expenses incurred in or about the marketing of the eggs and the administration of this Act shall be final.

(3) The Board may settle and adjust all conflicting claims in respect to payments to be made in respect of any eggs under this section; but at the request of any party to a dispute regarding any such claim the dispute shall be referred in the prescribed manner for decision by the local court held nearest to the office of the Board.

(4) As and when the Board receives the proceeds of the sale of eggs by the Board under this Act, it may deduct therefrom such amount not exceeding ten per centum of the amount of such proceeds as the Board may from time to time determine and place the same to the credit of an account to be kept by the Board and to be called "The Board Administration Account" for use by the Board for or on account of the administration expenses of the Board as they arise from time to time and for the purposes of exercising any of the powers or of carrying out the duties and functions imposed on it by the other provisions of this Act.

(5)(a) Where a producer is the holder of a permit granted under section twenty-three, subsection (1) of this Act, he shall contribute to The Board Administration Account referred to in subsection (4) of this section, such amount as the Board may determine, from time to time.

(b) Where a person is the holder of a permit granted under subsection (3) of section twenty-three of this Act, he shall deduct from the price payable to the producer such amount as the Board may determine from time to time and shall remit the amount to the Board as contribution to The Board Administration Account in accordance with the terms and conditions of the permit.

Provided that eggs used or sold for the purpose of hatching shall be exempt from all charges under this Act.

## PART IVA.—LICENSING OF PRODUCERS.

Interpre-  
tation.Added by  
No. 114 of  
1970, s. 5.  
Amended by  
No. 37 of  
1975, s. 7.

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

“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.

Duration  
and  
conditions  
of licenses.Added by  
No. 114 of  
1970, s. 6.  
Repealed  
and  
re-enacted  
by No. 37 of  
1975, s. 8.

32B. A license under this Part of this Act shall take effect on the first day of January and, unless sooner surrendered or cancelled, shall remain in force for the calendar year.

Invitation  
for  
applications  
for licenses.Added by  
No. 114 of  
1970, s. 7.  
Amended by  
No. 37 of  
1975, s. 9.

32C. (1) Not later than the thirty-first day of October in each year the Board shall cause to be published on at least two occasions in a newspaper circulating throughout the State a notice setting out the manner and form in which, and the date before which, applications are to be made to the Board for a license under this Part of this Act in respect of the licensing year then next ensuing.

(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 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.

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. Added by No. 114 of 1970, s. 8

- (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.

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.

Determination of applications. Added by No. 114 of 1970, s. 9; amended by No. 37 of 1975, s. 10.

(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 G and to section thirty-two J of this Act, a license authorises the person to whom it is so granted to keep during the licensing year for which the license is granted the number of fowls endorsed on the license.

(3) [*Deleted by No. 37 of 1975, s. 10.*]

(3a) On the recommendation of the Board, regulations may be made under this Act prescribing the maximum number of fowls which any person or association of persons may be licensed to keep, and such regulations may prescribe the principles upon which the Board shall determine whether or not any persons shall be regarded for the purposes of this subsection as constituting an association of persons.

(4) Subject to subsection (5) of this section, the Board shall not grant a license for any 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.

**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.

Supplementary licenses. Added by No. 114 of 1970, s. 10; amended by No. 37 of 1975, s. 11.

(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, subject to section thirty-two G and to section thirty-two J of this Act, 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.

**32FA.** Where the Board is of the opinion that the number of eggs likely to be produced during any part of a licensing year will be in excess of the requirements of the Board, the Board may, with the approval of the Minister, by notice published in the *Government Gazette*, rateably reduce the number of fowls authorised to be kept during the licensing year by persons who are the holders of a license or supplementary license under this Part of this Act, and thereupon each such license or supplementary license shall be deemed to have been so varied.

Reduction in authorised flocks, during licensing year. Added by No. 37 of 1975, s. 12.

**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 either in its entirety or as to any part thereof.

Transfers. Added by No. 114 of 1970, s. 11; amended by No. 37 of 1975, s. 13.

(2) [*Deleted by No. 37 of 1975, s. 13.*]

(3) Where an application is made for the approval of the Board to the transfer of a license or a supplementary license otherwise than in its entirety the holder shall return that license to the Board on demand and the number of fowls which he is authorised to keep and is endorsed thereon shall be amended accordingly upon that transfer taking effect.

Appeals.  
Added by  
No. 114 of  
1970, s. 12.

**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—

- (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.

Protection  
against  
actions.  
Added by  
No. 114 of  
1970, s. 13.

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

- (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.

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

Cancellation of licenses. Added by No. 114 of 1970, s. 14.

- (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.

Offences.  
Added by  
No. 114 of  
1970, s. 15;<sup>1</sup>  
amended by  
No. 37 of  
1975, s. 14.

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

- (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 first offence, a fine not exceeding three hundred dollars; for a second offence, a fine not exceeding five hundred dollars; and for a third or subsequent offence, a fine not exceeding one thousand dollars.

Breeding  
fowls.  
Added by  
No. 114 of  
1970, s. 16;<sup>1</sup>  
amended by  
No. 37 of  
1975, s. 15.

**32L.** (1) In this section—

“breeding fowl” means a fowl which is kept for the purpose of producing hatching eggs;

“pullet” means a female domesticated fowl that has begun to lay but is less than six months of age.

(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.

<sup>1</sup> Effective date of original provisions was 1st July, 1971; See *Government Gazette* 19/3/71, p. 846.

(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.

(7) Any person who, for the purpose of selling the chickens or pullets to producers, hatches eggs or rears chickens or pullets shall—

- (a) if so required by the Board by notice in writing keep a record of such sales and deliver to the Board in each month a return on the form provided by the Board for that purpose showing whether any or what number of chickens and pullets were sold during the previous month and the name and address of each purchaser; and
- (b) truthfully answer any question relating to any returns submitted to the Board or relating to the sale of chickens or pullets to licensed producers.

(8) A producer who purchases or otherwise acquires any chickens, pullets, or fowls from any person shall—

- (a) within fourteen days thereafter notify the Board in writing of the name and address of that person, the date of the purchase or acquisition, and the number and age of the chickens, pullets, or fowls involved; and
- (b) furnish to the Board such other information relevant to, or concerning, the transaction as the Board requires.

Board may obtain information, etc.  
Added by No. 114 of 1970, s. 17.

**32M.** (1) The Board may—

- (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) cause 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.

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.  
Added by  
No. 114 of  
1970, s. 18.

PART V.—MISCELLANEOUS.

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

Non-liability  
of Board.  
W.A. No. 51  
of 1938, s. 16.  
S.A. No. 41  
of 1941, s. 31.

- (a) to a producer delivering or causing to be delivered any eggs to the Board or to any person on its behalf;
- (b) to any person entitled or claiming to be entitled through such producer; or
- (c) to any person on the order of such producer or person,

the Board shall not be answerable to any other person in respect of such 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 producer, shall be deemed to be such producer.

(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.

34. (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.

Accounts  
and Audit.  
W.A. No. 51  
of 1938, s. 17.  
S.A. No. 41  
of 1941, s. 15.

(2) The Auditor General shall in each financial year audit the accounts of the Board for the preceding financial year and every member and officer 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.

Expenditure  
a charge on  
proceeds of  
sale of eggs.  
W.A. No. 51  
of 1938, s. 18.

35. All expenditure of the Board and all claims against the Board shall be a charge upon the proceeds of eggs marketed by the Board which to the necessary extent shall be deemed part of the Board's funds accordingly.

Annual  
Report.

36. 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 of same the Minister shall cause copies of such annual report and of such accounts with the Auditor General's report to be laid before both Houses of the Parliament.

Offences  
and  
penalties.  
Amended by  
No. 37 of  
1975, s. 16.  
W.A. No. 51  
of 1938, s. 19.  
S.A. No. 41  
of 1941, s. 32.

37. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(2) Any person guilty of an offence against this Act for which no other penalty is expressly provided shall be liable to a fine not exceeding three hundred dollars.

(3) Proceedings for offences against this Act shall be heard and determined summarily.

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

How legal proceedings taken.

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

38A. In the event of the Board being wound up, the proceeds of the Board's assets remaining after the Board's liabilities and the expenses of the winding up have been met, shall be applied in such manner as the Governor directs, and is hereby authorised to direct, for the benefit of the egg industry of the State.

Proceeds of winding up to be applied for the benefit of the egg industry. Added by No. 42 of 1954, s. 2.

39. (1) The Governor may make regulations under this Act prescribing all such matters as by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to or achieving the objects of this Act and facilitating the exercise of its powers by the Board, or, in the event of the Board being wound up, for achieving or facilitating the winding up of the Board.

Regulations. Amended by No. 19 of 1949, s. 5; No. 42 of 1954, s. 3; No. 37 of 1975, s. 17.

W. A. No. 51 of 1938, s. 20. S. A. No. 41 of 1941, s. 34.

(2) The power hereby given shall (without limiting its generality) be deemed to include power to make regulations—

- (a) empowering the Board to institute prosecutions under the Agricultural Products Act, 1929-1940,<sup>1</sup> in respect of eggs;
- (b) requiring producers, or persons dealing or trafficking in eggs as owners or agents or licensed collectors, or concerned in the transport or having the custody of eggs,

<sup>1</sup> Now Agricultural Products Act, 1929-1974.

*Marketing of Eggs.*

to furnish returns containing such information as the Board may consider necessary;

- (c) for enabling the Board or any person authorised by it to inspect any records or accounts relating to eggs or to inspect premises on which eggs are produced, stored, graded, packed, dried, pulped, or otherwise treated;
- (d) for prescribing the duties, functions and conduct of registered agents, licensed collectors or persons holding permits to buy eggs;
- (e) the regulation and control of the supply, grading, treatment, processing, manufacture, storage, distribution, marketing, sale, purchase, use and consumption of eggs;
- (f) the issue and cancellation of permits;
- (g) defining the functions, authorities and duties of inspectors;
- (h) any other matter which in the opinion of the Minister is incidental to carrying out the functions and duties imposed on the Board by this Act.

(3) Regulations made under this Act may prescribe penalties not exceeding one hundred dollars in respect of any contravention of any of the regulations.

40. [*Repealed by No. 110 of 1969, s. 5.*]