

WESTERN AUSTRALIA

MARKETING OF EGGS AMENDMENT ACT

No. 122 of 1987

AN ACT to amend the *Marketing of Eggs Act 1945* and the *Agricultural Products Act 1929* and for incidental and other purposes.

[Assented to 31 December 1987]

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

1. This Act may be cited as the *Marketing of Eggs Amendment Act 1987*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Marketing of Eggs Act 1945** is referred to as the principal Act.

[*Reprinted as approved 13 August 1975 and amended by Acts Nos. 69 of 1977 and 98 of 1985.]

Section 5 amended

4. Section 5 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “or ducks” in the definition of “eggs” and substituting the following—

“ and of such species of birds as are prescribed ”;

(ii) by deleting “and ducks” in the definition of poultry;

(iii) by deleting “and/or ducks” in the definition of “producer”; and

(iv) by deleting “or duck” in the definition of producer;

and

(b) in subsection (2), by deleting “and ducks”.

Section 7 amended

5. Section 7 of the principal Act is amended in subsection (3) by deleting “, one of whom at least shall be a person of mercantile and commercial experience in the marketing of eggs” in paragraph (b).

Section 9 amended and validation

6. (1) Section 9 of the principal Act is amended—

(a) by inserting after the section designation “9.” the subsection designation “(1)”; and

(b) by inserting the following subsection—

“ (2) All or any of the activities of the Board may be carried on under—

(a) the name of the Board; or

(b) subject to the *Business Names Act 1962*, a trading name approved by the Minister,

where the Board so determines and the Minister approves. ”.

(2) The use of the name “Golden Egg Farms” by the Board generally or in any transaction carried out or purporting to have been carried out under the principal Act before the coming into operation of this Act is hereby declared to be and to always have been valid.

Section 17 amended

7. Section 17 of the principal Act is amended in subsection (1) by inserting after “appoint” the following—

“ a general manager, ”.

Section 20 repealed

8. Section 20 of the principal Act is repealed.

Section 31 amended

9. Section 31 of the principal Act is amended in subsection (1) by deleting the passage commencing with “The grades” and ending with “1940.”.

Sections 31AA, 31AB, 31AC and 31AD inserted

10. After section 31A of the principal Act the following sections are inserted—

Codes for grading and packing

“ 31AA (1) The Board may with the approval of the Minister formulate codes providing for the grading, marking and packing of eggs.

(2) The Board may in a code formulated under subsection (1) specify the package or kind of package to be used in relation to eggs or eggs of a particular class.

Eggs to conform to grades

31AB (1) Except in the case of a sale for export from the State, a person shall not himself or by his servant or agent sell eggs or any egg product by way of retail sale unless—

- (a) the eggs conform to a code under section 31AA;
- (b) the package containing the eggs or egg products is marked in accordance with a code formulated under section 31AA; and
- (c) the eggs conform to the grade or standard indicated on the package containing the eggs.

Eggs and egg products to be packed and graded

31AC. Except in the case of a sale for export, a person who packs any eggs or egg products intended for sale otherwise than by way of retail sale shall grade the eggs or egg products and pack and mark the package in accordance with a code formulated under section 31AA.

Offence

31AD. A person who contravenes section 31AB or 31AC commits an offence.

Penalty: \$400. ”.

Section 32 amended

11. Section 32 of the principal Act is amended—

(a) by inserting after subsection (4) the following subsections—

“ (4a) The Board may from time to time impose a charge determined by the Board on every producer licensed by the Board under this Act.

(4b) The charge referred to in subsection (4a)—

(a) may be assessed on such basis as is determined by the Board;

(b) is payable within such time as is specified by the Board.

(4c) The proceeds of any charges fixed by the Board under subsections (4a) and (4b) shall be applied by the Board for the purposes of the general administration, marketing and other costs of the Board.

(4d) A person who fails or neglects to pay a charge determined by the Board under subsection (4b) commits an offence and is liable to a penalty of \$1 000 and in addition the court shall order that the offender pay to the Board the amount of any moneys payable by the offender under subsection (4a). ”;

and

(b) in subsection (5), by inserting before the proviso the following paragraph—

“ (c) The amounts referred to in this subsection are payable to the Board in addition to any other charges required to be paid to the Board under this Act. ”.

Section 32E amended

12. Section 32E of the principal Act is amended by repealing subsection (3a) and substituting the following subsection—

“ (3a) On the recommendation of the Board—

(a) the Minister may from time to time determine the maximum number of fowls which any person or association of persons may be licensed to keep;

(b) regulations may be made prescribing 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. ”.

Section 32G amended

13. Section 32G of the principal Act is amended by inserting after subsection (1) the following subsection—

“ (2) A transfer of a licence under subsection (1) shall be consented to—

- (a) where the transferor is a body corporate or an association of persons not being a partnership—by every person who is a member of the body corporate or association, as the case requires; or
- (b) where the transferor is a partnership—by every person who is a member of the partnership. ”.

Section 32K amended

14. Section 32K of the principal Act is amended by deleting the penalty provision and substituting the following—

“ Penalty: For a first offence, a fine not exceeding \$500; for a second offence, a fine not exceeding \$750; and for a third or subsequent offence a fine not exceeding \$1 500. ”.

Section 32L amended

15. Section 32L of the principal Act is amended in subsection (8)—

- (a) by deleting “from any person” and substituting the following—

“ or who disposes of any chickens, pullets, or fowls by sale or otherwise ”;

- (b) by deleting “that person” in paragraph (a) and substituting the following—

“ the other party to the transaction ”; and

- (c) by deleting “purchase or acquisition,” in paragraph (a) and inserting the following—

“ purchase, acquisition or disposal, as the case may be, ”.

Section 34 amended

16. Section 34 of the principal Act is amended—

(a) by inserting after the section designation “34.” the subsection designation—

“ (1) ”; and

(b) by inserting the following subsection—

“ (2) Notwithstanding anything in the *Financial Administration and Audit Act 1985*, the financial year for the purposes of this Act is the period of 52 or 53 weeks (and in this context “week” means a period of 7 days commencing on Sunday), as the case requires, ending on the Saturday nearest to 30 June in any year that is appointed by the Minister by notice published in the *Government Gazette* before the commencement of the financial year in question. ”.

Section 37 amended

17. Section 37 of the principal Act is amended in subsection (2) by deleting “three hundred dollars” and substituting the following—

“ \$500 ”.

Section 38 amended

18. Section 38 of the principal Act is amended by inserting before “secretary” the following—

“ general manager, ”.

Section 39 amended

19. Section 39 of the principal Act is amended in subsection (2)—

(a) by deleting paragraph (a);

(b) by inserting after “persons” in paragraph (b) the following—

“ grading, ”;

(c) by deleting “or licensed collectors” in paragraph (b);

(d) by inserting after paragraph (c) the following—

“ (ca) licensing persons other than the Board to carry out the grading of eggs; ”; and

(e) by deleting “licensed collectors” in paragraph (d) and substituting the following—

“ persons who are licensed to grade eggs ”.

Section 40 added

20. After section 39 of the principal Act the following section is added—

Review

“ 40. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the coming into operation of section 20 of the *Marketing of Eggs Amendment Act 1987*, and in the course of such review the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the Board;
- (b) the need for the continuation of the functions of the Board; and
- (c) such other matters as appear to him to be relevant to the operations and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament. ”.

Agricultural Products Act 1929 amended

21. The *Agricultural Products Act 1929** is amended by inserting after section 2 the following section—

Application

“ 2AA. This Act does not apply to eggs as defined in section 5 of the *Marketing of Eggs Act 1945*. ”.

[*Reprinted as authorised 14 January 1970 and amended by Acts Nos. 82 of 1974, 61 of 1982 and 47 of 1985.].