

SOUTH AUSTRALIA

APIARIES ACT, 1931

This Act is reprint pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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APIARIES ACT, 1931

being

Apiaries Act, 1931, No. 2021 of 1931
[Assented to 12 November 1931]¹

as amended by

Apiaries Act Amendment Act, 1935, No. 2250 of 1935 [Assented to 21 December 1935]
Apiaries Act Amendment Act, 1943, No. 19 of 1943 [Assented to 16 December 1943]
Apiaries Act Amendment Act, 1964, No. 16 of 1964 [Assented to 24 September 1964]
Apiaries Act Amendment Act, 1974, No. 118 of 1974 [Assented to 5 December 1974]²
Apiaries Act Amendment Act, 1984, No. 35 of 1984 [Assented to 24 May 1984]³
Apiaries Act Amendment Act, 1987, No. 100 of 1987 [Assented to 17 December 1987]⁴

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

¹ Came into operation 22 January 1932: *Gaz.* 21 January 1932, p. 67.

² Came into operation 30 June 1975: *Gaz.* 26 June 1975, p. 2460.

³ Came into operation 1 June 1984: *Gaz.* 31 May 1984, p. 1321.

⁴ Came into operation 22 September 1988: *Gaz.* 22 September 1988, p. 1114.

An Act to regulate and control the keeping of bees and the production and sale of honey.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title and commencement

1. (1) This Act may be cited as the *Apiaries Act, 1931*.

(2) This Act shall come into force on a day to be fixed by proclamation.

Repeal of 342 of 1885 and 410 of 1887

2. The Ligurian Bee Act and the Foul Brood Among Bees Act are hereby repealed.

Interpretation

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

"apiary" means any place where bees or any hives are kept by any person and, in relation to any such place that in the opinion of an inspector is infected with disease, includes the bees, hives, honey, beeswax and appliances therein:

"appliance" means an article used in an apiary or in connection with the extraction or storage of honey:

"bee" means a bee of the genus *Apis*:

"beekeeper" means any person who keeps bees:

"corresponding law" means a law of a State, other than this State, or Territory, of the Commonwealth declared by proclamation under subsection (2) of this section to be a corresponding law for the purposes of this Act:

"disease" means any disease of or affecting bees prescribed by regulation:

"frame-hive" means a hive built as may be prescribed, and fitted with movable frames in the prescribed manner:

"the Fund" means the Beekeeper's Compensation Fund established under this Act:

"inspector" means any chief inspector and any other inspector appointed under this Act, and also means any person authorized by the Minister to perform the duties of an inspector in any case:

"notifiable disease" means a disease declared by regulation to be a notifiable disease:

"nucleus hive" means a hive consisting of not more than five frames when used for the purpose of queen and brood raising only.

(2) The Governor may, from time to time, by proclamation declare any law of a State, other than this State, or Territory, of the Commonwealth to be a corresponding law for the purposes of this Act and may by proclamation amend, vary or revoke any such declaration.

Appointments

4. The Governor, from time to time, may appoint a chief inspector and such and so many inspectors and other officers as he may think fit for the purposes of this Act.

Registration as beekeeper

5. (1) Subject to this section, on or after the thirtieth day of June, 1975, a person shall not keep bees unless he is registered under this section as a beekeeper.

Penalty:

- for a first offence—\$500;
- for a second or subsequent offence—\$5 000.

(2) Application for registration, or renewal of registration, under this section shall be made in the prescribed manner and shall be accompanied by the prescribed information, and the prescribed fee.

(3) A registration may be granted under this section in respect of the whole or unexpired portion of the period of three years commencing on the thirtieth day of June, 1975, or in respect of the whole or unexpired portion of any of the successive periods of three years, and shall expire upon the expiration of the period in respect of which it was granted, and may be renewed for the successive periods of three years.

(4) Notwithstanding anything in subsection (1) of this section, a person may keep bees in a hive brought into this State for a period of ninety days in any continuous period of twelve months, where the manner in which that person keeps the bees would, if those bees were being kept in the State or Territory from which he brought them, comply with the requirements of the corresponding law of that State or Territory.

(5) Nothing in this section shall apply to or in relation to the keeping of bees for the purposes of instruction in any educational institution approved of by the Minister for the purposes of this subsection.

Beekeepers to notify presence of disease

6. (1) A beekeeper must, within 48 hours after evidence of a notifiable disease appears in his or her apiary, give notice to an inspector describing the nature of the evidence.

Penalty: \$5 000.

(2) The reference in subsection (1) to evidence of a notifiable disease extends to any indication that would cause a reasonable and conscientious beekeeper to suspect the disease.

Duties of beekeepers

7. (1) Every beekeeper shall—

- (a) immediately upon learning that any disease has occurred in his apiary, take all necessary steps to eradicate such disease and to remove all infection from such apiary:

4.

(b) upon receiving notice from an inspector—

- (i) so to do, attend the inspector at his apiary at the time specified in the notice, and remove or cause to be removed from any hive such frames or honey-combs as the inspector may require and facilitate the inspection thereof by the inspector;
- (ii) that any hive in his apiary does not comply with the regulations, remedy such defect within the time specified in the notice;
- (iii) that any disease occurring in his apiary has developed too fully to be cured, destroy as directed by the inspector all bees frames and combs infected with such disease within the time specified in the notice, and properly sterilize as directed by the inspector all hives, appliances, and articles infected with such disease within the time specified in the notice; and

(c) comply with any directions or instructions lawfully given by an inspector under this Act.

(2) A beekeeper who has received notice from an inspector that his apiary is infected with disease shall not, except with the permission of an inspector—

- (a) dispose of or move a hive or an appliance from the apiary unless the hive or appliance, as the case may be, has ceased to be so infected (proof whereof shall lie upon the beekeeper); or
- (b) dispose of or move any honey or beeswax.

(3) A beekeeper shall, within seven days of selling or disposing of any bees, give written notice of the sale or disposal to an inspector.

Powers of inspectors

8. Any inspector may—

- (a) with such assistants as he deems necessary, enter any premises in which there is an apiary, or in which he has reasonable ground to believe that bees are kept, and inspect any apiary or hive or appliance therein or article used in connection therewith and may, with such assistants as he deems necessary, enter any premises in which he has reasonable grounds to believe there is any hive, colony, or swarm of bees other than bees kept by a beekeeper;
- (b) give to any beekeeper any of the notices mentioned in section 7;
- (c) require any beekeeper to take any such steps or precautions as the inspector considers necessary for the prevention or eradication of disease in his apiary;

5.

- (d) destroy, as the inspector considers necessary, any bees (whether kept by a beekeeper or not) frames or combs and sterilize in the manner prescribed any hives, appliances, or articles which he has reasonable ground to believe to be so affected with disease as to necessitate his so doing, and, where any hive is incapable of being effectively sterilized, may destroy the hive, and, if any beekeeper whose bees frames or combs are so destroyed, or whose hives, appliances, or articles are so destroyed or sterilized has failed to destroy or sterilize the same when required as provided by this Act, the inspector may recover from him in any court of competent jurisdiction all reasonable costs and expenses incurred by him in effecting such destruction or sterilizing;
- (e) seize and destroy or otherwise dispose of as the Minister may direct any hives, honey, beeswax or appliances that are or is found abandoned or neglected and infected or likely to become infected with disease; and
- (f) require the owner of an apiary infected with disease to remove the apiary to a place where it will not constitute a source of infection to other apiaries, or, if the owner does not comply with the requirement, the inspector may remove the apiary to any such place.

Beekeeper's Compensation Fund

8a. (1) There shall be a Fund at the Treasury entitled the "Beekeeper's Compensation Fund".

(2) There shall be paid into the Fund—

- (a) the contributions required to be paid in accordance with section 8b;
- (b) such amounts as are paid from the General Revenue of the State under subsection (4);

and

- (c) interest at such rates as the Treasurer determines on amounts standing to the credit of the Fund.

(3) There shall be paid out of the Fund—

- (a) any amount payable as compensation pursuant to section 8c;
- (b) any expenses certified by the Treasurer as having been incurred in administering the Fund;

and

- (c) any amount required to be paid in accordance with the terms and conditions of an advance made under subsection (4).

(4) Where the amount standing to the credit of the Fund is not sufficient to meet payments of compensation under section 8c, the Treasurer may, at the request of the Minister, advance from the General Revenue of the State (which is appropriated to the necessary extent) such amount as is necessary to cover the insufficiency.

6.

(5) An advance under subsection (4) shall be made upon such terms and conditions as the Treasurer, having regard to proper principles of financial management, may determine.

(6) Proper accounts shall be kept in relation to the Fund.

(7) The Auditor-General may at any time, and shall at least once in every year, audit the accounts of the Fund.

Beekeepers required to make payments into Fund

8b. (1) Every registered beekeeper must make a triennial payment to the Minister, in accordance with the regulations, of the prescribed amount.

(2) A payment received by the Minister under subsection (1) shall be credited to the Fund.

(3) If a registered beekeeper fails to pay the prescribed amount within the time allowed for payment by the regulations, his registration shall, by virtue of this subsection, be suspended until the payment is made.

(4) A committee comprising an officer of the Department of Agriculture and three representatives of beekeepers shall be appointed by the Minister.

(5) The committee shall have the function of recommending to the Minister the rate that should, in its opinion, be fixed as the prescribed rate.

(6) The Minister may, from time to time, upon the recommendation of the committee, fix an amount per frame-hive as the prescribed rate.

(7) Notice of an amount per frame-hive fixed as the prescribed rate under subsection (6) shall be published in the *Gazette*.

(8) In this section—

"the prescribed amount", in relation to a beekeeper, means the amount obtained by multiplying the number of frame-hives kept by him at the time at which he is required by the regulations to make a payment under this section by the prescribed rate last notified in the *Gazette* under subsection (7).

Compensation

8c. (1) Subject to section 8d, compensation shall be paid to a registered beekeeper in respect of any of his bees, hives, combs or appliances—

(a) that are infected with, or affected by—

(i) American Foul Brood;

or

(ii) any other disease declared by regulation to be a disease in respect of which compensation may be paid under this section;

and

7.

(b) that are destroyed or sterilized in a manner approved by the chief inspector.

(2) An application for compensation must—

(a) be made to the Minister;

(b) be in writing and in the prescribed form;

and

(c) be accompanied by the prescribed information verified by statutory declaration.

(3) The amount of the compensation payable under this section shall be seventy-five per centum of the value of the property destroyed calculated as at the date of its destruction but on the assumption that it had not become infected with, or affected by, the disease.

(4) The value of property for the purpose of subsection (3) shall be determined by agreement between the beekeeper and the Minister and, in default of agreement, by a competent person nominated by the Minister.

(5) The determination of a competent person under subsection (4) shall be final and conclusive.

(6) The maximum amount of compensation payable under this section will be calculated in accordance with the regulations.

Limits to compensation

8d. The Minister may refuse an application for compensation under section 8c where—

(a) the beekeeper has contravened, or failed to comply with, a provision of this Act or a requirement or direction of an inspector;

(b) the property in respect of which compensation is sought became infected with, or affected by, disease as a result of neglect on the part of the beekeeper;

(c) the property in respect of which compensation is sought was brought into the State after having been infected with, or affected by, the disease by reason of which it was destroyed;

or

(d) in the opinion of an inspector, the disease that affected the property in respect of which compensation is sought had been present for at least two months before notification was given in accordance with this Act.

Right of appeal from Minister's refusal of compensation

8e. (1) A person who has been refused compensation by the Minister under section 8d may appeal against that refusal to a District Court.

(2) An appeal under this section must be commenced within one month after receipt of notice of the Minister's refusal.

(3) On an appeal the Court may confirm or reverse the Minister’s decision.

Offences

9. No person shall—

(a) keep any bees in contravention of this Act;

* * * * *

(c) contravene any of the other provisions of this Act;

(d) except when required by an inspector, remove any honey, beeswax, bees, hives or appliances, knowing them to be infected with disease from any premises;

(e) sell, barter, give away, or otherwise than in the prescribed manner dispose of any bees, hives, appliances, or articles or any honey or beeswax which are or is known by him to be infected by or liable to spread disease;

(f) expose to the open air, or in any place where bees may have access thereto, any frames, combs, honey, beeswax or appliances;

(g) conceal from an inspector the fact that his apiary, or any bees or an appliance or article therein, is or are infected with disease;

(h) obstruct, resist, or impede any inspector in the performance of any duty under this Act; or

(i) fail to comply with any requirement lawfully made of him under this Act by an inspector.

Penalty:

— for a first offence—\$500;

— for a second or subsequent offence—\$5 000.

Power to prohibit removal of bees

10. (1) In any case in which the Governor is of opinion that it is desirable so to do in order to prevent or minimise the spread or introduction of disease into any part of the State, the Governor may by proclamation declare that no bees or hives, or specified appliances or articles shall be removed from any specified part of the State and may by proclamation declare that no bees, hives, or specified appliances or articles shall be taken into any specified part of the State.

(2) Any such proclamation may provide that the same is to continue in force for the period therein named and any such proclamation may be revoked or varied by proclamation made by the Governor.

(2a) The Minister may by notice in writing authorize the removal from or taking into any part of the State to which a proclamation under this section applies of any bees, hives, appliances, or articles which he is satisfied are free from disease.

(3) If any person contravenes any provision of any such proclamation he shall be liable to a penalty not exceeding \$5 000. An inspector may seize and detain any bees, hives, appliances, or articles in respect of which any such contravention occurs and the said bees, hives, appliances, or articles may be destroyed or otherwise disposed of as the Minister may direct.

Power to prohibit the keeping of bees in specified areas

11. (1) In any case where the Governor is of opinion that the keeping of bees in any part of the State is harmful to the drying of any fruits the Governor may by proclamation prohibit (either absolutely or subject to such conditions as may be declared in the proclamation) the keeping of bees within the part of the State specified in the proclamation.

(2) Any such proclamation may provide that the same is to continue in force for the period or periods therein named, and any such proclamation may be revoked or varied by proclamation made by the Governor.

(3) Any person who keeps any bees in contravention of the provisions of any such proclamation shall be liable to a penalty not exceeding \$5 000.

Prohibition of keeping other than Ligurian bees on Kangaroo Island

12. (1) No person shall bring any bees or cause any bees to be brought into Kangaroo Island.

Penalty: \$5 000.

(2) Any inspector or member of the police force—

(a) may go on board and inspect—

(i) any aeroplane, ship, boat or vessel that is about to proceed to Kangaroo Island;

(ii) any aeroplane that has landed at Kangaroo Island or any ship, boat or vessel in or near any harbour of Kangaroo Island;

and

(b) seize and destroy any bees, or any hive or receptacle for bees, found in the course of the inspection.

(3) No person shall keep or cause to be kept in Kangaroo Island any bees other than pure Ligurian bees.

Penalty: \$5 000.

(4) An inspector or member of the police force may—

(a) search any vehicle on Kangaroo Island;

or

(b) enter upon and inspect any land on Kangaroo Island,

and seize and destroy any bees that are not pure Ligurian Bees and any hive or receptacle for such bees.

(5) The Governor may by proclamation declare that bees shall not be brought from any specified part of Kangaroo Island into any other part of Kangaroo Island and may by proclamation revoke or vary any such proclamation.

(6) No person shall bring any bees or cause any bees to be brought into any part of Kangaroo Island contrary to the provisions of any proclamation made under subsection (5).

Penalty: \$5 000.

(7) If any bees are brought into any part of Kangaroo Island contrary to the provisions of any proclamation made under subsection (5), any inspector or member of the police force may seize and destroy the bees and any hive or receptacle in which the bees may be.

Power to reserve parts of the State for breeding specified kinds of bees

13. (1) The Governor may by proclamation declare that no bees other than of the kind specified in the proclamation shall be kept in or brought into any part of the State specified in the proclamation, and may by proclamation revoke or vary any such proclamation.

(2) No person shall keep in or bring into any such part of the State any bees in contravention of any such proclamation.

Penalty: \$5 000.

Bees to be kept in frame-hive

13aa. A person shall not keep bees in a hive other than a frame-hive.

Penalty:

— for a first offence—\$500;

— for a second or subsequent offence—\$5 000.

Hives to be branded

13a. (1) Subject to subsection (2) of this section, a beekeeper shall not fail to brand and keep branded each of his hives in the prescribed manner with a brand allotted to him by the chief inspector.

Penalty:

— for a first offence—\$500;

— for a second or subsequent offence—\$5 000.

(2) Notwithstanding anything in subsection (1) of this section, a beekeeper is not required to brand any hive while the hive is kept in this State in accordance with subsection (4) of section 5 of this Act, if the hive is branded in accordance with the requirements of the corresponding law of the State or Territory from which he brought the hive.

(3) Nothing in this section shall apply to or in relation to a hive in which bees are kept for the purposes of instruction in any educational institution approved by the Minister for the purposes of subsection (5) of section 5 of this Act.

Beekeeper to provide water

13b. A beekeeper must maintain, in each place where bees are kept and so as to be not more than 200 metres from any hive, sufficient clean water of suitable mineral content for the bees.

Penalty:

- for a first offence—\$500;
- for a second or subsequent offence—\$5 000.

Procedure

14. All proceedings in respect of offences against this Act shall be disposed of summarily.

Application of fees, etc.

15. All fees and other moneys received under this Act shall be paid into, and form part of, the general revenue.

Protection for inspector

16. (1) An inspector acting in the execution of this Act shall not be deemed to be a trespasser by reason of an entry or removal or destruction authorized by this Act, nor be liable for any damage occasioned in carrying out the provisions of this Act, unless the damage was occasioned by such inspector wilfully and without necessity.

* * * * *

Evidence

17. In any proceedings for an offence against this Act or for the recovery of any costs or expenses incurred by an inspector, proof that any bees in any hive were found upon any premises shall, in the absence of proof to the contrary, be sufficient proof that the bees were kept by the occupier of the premises.

Notice

18. Any notice required to be given to a beekeeper pursuant to this Act may be given by delivering the same to the beekeeper or may be given by registered post.

Regulations

19. (1) The Governor, from time to time, may make regulations under and for the purposes of this Act, prescribing all matters and things which may be necessary or desirable for giving effect thereto, and such regulations may prescribe, in addition to any other such matters—

- I. the diseases which shall be deemed to be diseases within the meaning of this Act, in the same manner and to the same extent as though the same were enumerated in the schedule to this Act;
- II. any requirements or conditions in the absence of which registration as a beekeeper may be refused;
- IIa. fees to be charged for registration as a beekeeper pursuant to this Act and additional fees payable as a penalty for late registration;
- IIb. the type and the size of any brand required by section 13a of this Act, and the manner in which hives shall be branded therewith;
- III. the grading, packing, marking, branding, or labelling of packages or containers containing honey, and the prohibition of any sale thereof unless the prescribed conditions are fulfilled;
- IV. the examination of bees, hives, appliances, or articles imported into the State for the purpose of ascertaining whether the same are infected with disease;
- V. the issue of certificates certifying that any honey is produced in a part of the State in which disease is not known to exist and the conditions which must be fulfilled in respect of honey intended for export from the State and the prohibition of such export unless the same are fulfilled; and
- VI. fees to be charged for the issue of any certificate pursuant to this Act or for any service rendered pursuant to this Act.

(2) A regulation under this section may create an offence punishable by a fine not exceeding for a first offence \$500 or for a second or subsequent offence \$5 000.

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APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 1 of The Public General Acts of South Australia 1837-1975 at page 356.

Section 3(1):	definition of "disease" substituted by 100, 1987, s. 3(a) definition of "the Fund" inserted by 35, 1984, s. 3 definition of "notifiable disease" inserted by 100, 1987, s. 3(b)
Section 5(1):	amended by 35, 1984, s. 4; 100, 1987, s. 4
Section 6:	substituted by 100, 1987, s. 5
Section 7(1):	amended by 100, 1987, s. 6
Section 7(3):	inserted by 35, 1984, s. 5
Sections 8a:	inserted by 35, 1984, s. 6
Section 8a(2):	amended by 100, 1987, s. 7
Sections 8b and 8c:	inserted by 35, 1984, s. 6
Section 8c(1):	amended by 100, 1987, s. 8(a)
Section 8c(6):	inserted by 100, 1987, s. 8(b)
Section 8d:	inserted by 35, 1984, s. 6; amended by 100, 1987, s. 9
Section 8e:	inserted by 100, 1987, s. 10
Section 9:	amended by 35, 1984, s. 7; 100, 1987, s. 11
Section 10(3):	amended by 35, 1984, s. 8; 100, 1987, s. 12
Section 11(3):	amended by 35, 1984, s. 9; 100, 1987, s. 13
Section 12(1):	amended by 35, 1984, s. 10; 100, 1987, s. 14(a)
Section 12(2):	amended by 100, 1987, s. 14(b)
Section 12(3):	amended by 35, 1984, s. 10; 100, 1987, s. 14(c)
Section 12(4):	substituted by 100, 1987, s. 14(d)
Section 12(6):	amended by 35, 1984, s. 10; 100, 1987, s. 14(e)
Section 13(2):	amended by 35, 1984, s. 11; 100, 1987, s. 15
Section 13aa:	amended by 35, 1984, s. 12; 100, 1987, s. 16
Section 13a(1):	amended by 35, 1984, s. 13; 100, 1987, s. 17
Section 13b:	substituted by 100, 1987, s. 18
Section 16(2):	repealed by 35, 1984, s. 14
Section 19(2):	amended by 35, 1984, s. 15; substituted by 100, 1987, s. 19
The schedule:	repealed by 100, 1987, s. 20