

SOUTH AUSTRALIA

DRIED FRUITS ACT 1993

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DRIED FRUITS ACT 1993

being

Dried Fruits Act 1993 No. 47 of 1993
[Assented to 20 May 1993]¹

¹ Came into operation 1 January 1994: *Gaz.* 4 November 1993, p. 2167.

N.B. The amendments effected to this Act by the *District Court (Administrative and Disciplinary Division) Amendment Act 2000* have not been brought into operation.

An Act to assist the dried fruits industry; to repeal the Dried Fruits Act 1934; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Dried Fruits Act 1993*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Object

3. The object of this Act is to assist the dried fruits industry, in particular—
 - (a) by establishing a statutory corporation to oversee and assist the dried fruits industry; and
 - (b) by registering producers and packers and requiring certain standards to be met for registration; and
 - (c) by requiring certain standards to be met in the production, packing, storage and handling of dried fruits.

Interpretation

4. In this Act, unless the contrary intention appears—

"**the Board**" means the *Dried Fruits Board (South Australia)* established under Part 2;

"**dried fruits**" means dried vine fruits or dried tree fruits;

"**inspector**" means—

- (a) a member of the police force; or
- (b) a person appointed as an inspector by the Board under this Act;

"**package**" includes container;

"**packer**" means a person who processes or packs dried fruits for sale;

"**producer**" means a person who dries vine fruits or tree fruits for sale (whether the fruit is grown by that person or another);

"**registered person**" means a person registered as a producer or packer under this Act;

"**selection committee**"—*see section 7*;

3.

"**sell**" means—

- (a) sell or give in exchange;
- (b) agree or offer to sell or give in exchange;
- (c) have in possession or control, expose, store, consign or deliver for sale or exchange;
- (d) cause, suffer or permit an act referred to in paragraph (a), (b) or (c),

and "sale" has a corresponding meaning.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix.

4.

PART 2
DRIED FRUITS BOARD (SOUTH AUSTRALIA)

DIVISION 1—THE BOARD

Dried Fruits Board (South Australia)

5. (1) The *Dried Fruits Board (South Australia)* is established.

(2) The Board is a body corporate.

Composition of Board

6. (1) The Board consists of five members appointed by the Governor of whom—

- (a) one (the presiding member) will be nominated by the Minister; and
- (b) one will be a person, nominated by the selection committee, who has, in the opinion of the committee, extensive knowledge of and experience in the production of dried tree fruits; and
- (c) one will be a person, nominated by the selection committee, who has, in the opinion of the committee, extensive knowledge of and experience in the production of dried vine fruits; and
- (d) one will be a person, nominated by the selection committee, who has, in the opinion of the committee, extensive knowledge of and experience in the grading and packing of dried fruits; and
- (e) one will be a person, nominated by the selection committee, who has, in the opinion of the committee, extensive knowledge of and experience in the marketing of dried fruits or any other foods.

(2) At least one member of the Board must be a woman and one a man.

(3) The Governor—

- (a) may appoint a member, nominated by the Minister, to be the deputy of the presiding member of the Board; and
- (b) may appoint a person, nominated by the selection committee, to be the deputy of any other member of the Board.

(4) A person appointed as the deputy of a member may act as a member of the Board in the absence of that member.

(5) If the selection committee fails to nominate a person within eight weeks of a written request for the nomination from the Minister, the Governor may appoint a person nominated by the Minister and that person will be taken to have been duly appointed as a member or deputy member (as the case may require) of the Board.

Selection committee

7. (1) The functions of the selection committee are to nominate persons for appointment to the Board and to nominate persons for appointment as deputies of members of the Board.

(2) The selection committee must, when nominating a person for appointment as a member or deputy of a member of the Board, advise the Minister in writing of the reasons for the nomination of that person.

(3) The selection committee is to consist of five members appointed by the Minister.

(4) The selection committee's membership must include persons who have, in the opinion of the Minister, appropriate expertise in the various aspects of the dried fruits industry including the production, packing and marketing of dried fruits.

(5) The Minister must seek nominations for appointment to the selection committee from such associations or other bodies as are, in the opinion of the Minister, substantially involved in the dried fruits industry.

(6) A member of the selection committee will be appointed for a term, not exceeding three years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.

(7) A member of the selection committee is entitled to such remuneration, allowances and expenses as the Minister may determine.

(8) The remuneration, allowances and expenses to which a member of the selection committee is entitled under subsection (7) must be paid out of the funds of the Board.

(9) A member of the selection committee will be appointed on such other conditions as the Minister determines.

(10) Subject to this Act—

(a) all members of the selection committee must be present (or participating by telephone or video conference, if a meeting is conducted by telephone or video conference) when the committee is making a nomination to the Board;

(b) four members of the selection committee constitute a quorum for the purpose of the transaction of any other business by the committee.

(11) Subject to this Act and the directions of the Minister, the selection committee may conduct its business in such manner as it thinks fit.

(12) An act of the selection committee is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Conflict of interest over appointments

8. (1) A member of the selection committee is not eligible for appointment to the Board and may not act as a deputy of any member of the Board.

6.

(2) A member of the selection committee who is closely associated with a person who is under consideration by the committee for nomination to the Board—

- (a) must disclose the nature of that association to the committee; and
- (b) must not, without the permission of the committee, take part in any deliberation or decision of the committee in relation to that person.

Penalty: Division 5 fine or division 5 imprisonment.

(3) A member of the committee is closely associated with another person if that other person is—

- (a) a director or member of the governing body of a body corporate of which the member is a director or member of the governing body; or
- (b) a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee; or
- (c) a party to a partnership or share-farming agreement to which the member is also a party; or
- (d) an employer or employee of the member; or
- (e) the spouse, parent or child of the member.

(4) The committee may give permission under subsection (1)(b) only if the reason for the close association of the member and the person under consideration is that they are both directors or members of the governing body of a body corporate substantially involved in the dried fruits industry.

(5) A disclosure under this section must be recorded in the minutes of the committee.

(6) It is a defence to a charge of an offence against this section for the defendant to prove that, at the time of the alleged offence, the defendant was unaware of his or her association with the person concerned.

(7) The fact that a member has failed to comply with this section in relation to a person does not invalidate a decision made in relation to that person.

Conditions of membership of Board

9. (1) A member of the Board will be appointed for a term, not exceeding three years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.

(2) The Governor may remove a member of the Board from office—

- (a) for misconduct; or
- (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or

7.

(c) if serious irregularities have occurred in the conduct of the Board's affairs or the Board has failed to carry out its functions satisfactorily and the Board's membership should, in the opinion of the Governor, be reconstituted for that reason.

(3) The office of a member becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) is removed from office under subsection (2).

Remuneration

10. (1) A member of the Board is entitled to such remuneration, allowances and expenses as the Minister may determine.

(2) The remuneration, allowances and expenses to which a member of the Board is entitled under subsection (1) must be paid out of the funds of the Board.

Vacancies or defects in appointment of members

11. An act of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Procedures of Board

12. (1) Three members of the Board constitute a quorum of the Board.

(2) The presiding member must preside at meetings of the Board at which he or she is present and, in the absence of the presiding member from a meeting, the deputy presiding member (or, in the absence of both the presiding member and the deputy presiding member, a member chosen by the members present) must preside at the meeting.

(3) A decision carried by a majority of the votes cast by the members at a meeting is a decision of the Board.

(4) Each member present at a meeting of the Board has one vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.

(5) A telephone or video conference between members of the Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present.

(6) A proposed resolution becomes a resolution of the Board if—

(a) notice of the proposed resolution is given to all members of the Board in accordance with procedures determined by the Board; and

(b) a majority of the members of the Board express their concurrence in the proposed resolution by letter, telegram, telex, facsimile transmission or other written communication setting out the terms of the resolution.

8.

(7) The Board must have accurate minutes kept of its proceedings.

(8) Subject to this Act, the Board may determine its own procedures.

Disclosure of interest of member

13. (1) A member of the Board who has a direct or indirect pecuniary or personal interest in a matter under consideration by the Board—

(a) must disclose the nature of the interest to the Board; and

(b) must not, without the permission of the Board, take part in any deliberations or decision of the Board in relation to that matter.

Penalty: Division 5 fine or division 5 imprisonment.

(2) Subsection (1) does not apply in respect of an interest that the member holds in common with a substantial class of persons involved in the dried fruits industry.

(3) It is a defence to a charge of an offence against subsection (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(4) A disclosure under this section must be recorded in the minutes of the Board.

(5) If a member of the Board discloses an interest in a proposed contract under this section and takes no part in any deliberations or decision of the Board on the contract—

(a) the contract is not liable to be avoided by the Board; and

(b) the member is not liable to account for profits derived from the contract.

Member's duties of honesty, care and diligence

14. (1) A member of the Board must at all times act honestly in the performance of official functions.

Penalty: Division 4 fine or division 4 imprisonment or both.

(2) A member of the Board must at all times exercise a reasonable degree of care and diligence in the performance of official functions.

(3) If a member of the Board is culpably negligent in the performance of official functions, the member is guilty of an offence.

Penalty: Division 4 fine.

(4) A member of the Board is not culpably negligent for the purposes of subsection (3) unless the court is satisfied the member's conduct fell sufficiently short of the standard required of the member to warrant the imposition of a criminal sanction.

9.

(5) A member or former member of the Board must not make improper use of information acquired through his or her official position to gain directly or indirectly a personal advantage for himself, herself or another, or to cause detriment to the Board.

Penalty: Division 4 fine or division 4 imprisonment or both.

(6) A member of the Board must not make improper use of his or her official position to gain directly or indirectly a personal advantage for himself, herself or another or to cause detriment to the Board.

Penalty: Division 4 fine or division 4 imprisonment.

(7) This section—

(a) operates both inside and outside the State; and

(b) is in addition to, and does not derogate from, other laws.

Common seal and execution of documents

15. (1) The common seal of the Board must not be affixed to a document except in pursuance of a decision of the Board, and the affixing of the seal must be attested by the signatures of two members of the Board.

(2) The Board may, by instrument under the common seal of the Board, authorise a person (whether or not a member or employee of the Board and whether nominated by name or by office or title) to execute documents on behalf of the Board subject to conditions and limitations (if any) specified in the instrument of authority.

(3) Without limiting subsection (2), an authority may be given so as to authorise two or more persons to execute documents jointly on behalf of the Board.

(4) A document is duly executed by the Board if—

(a) the common seal of the Board is affixed to the document in accordance with this section; or

(b) the document is signed on behalf of the Board by a person or persons in accordance with authority conferred under this section.

DIVISION 2—OPERATIONS OF BOARD

Functions of Board

16. (1) The Board must carry out its functions in co-operation with industry, associations or bodies representing the dried fruits industry and the Board's interstate counterparts.

(2) The Board has the following functions:

(a) to encourage, assist and oversee the maintenance and continued development of the dried fruits industry in this State;

10.

- (b) to plan and carry out programs of inspection of premises, facilities and equipment used in the production, packing, storage or handling of dried fruits;
- (c) to collect and collate information relevant to the dried fruits industry, and to disseminate that information to persons involved in the industry and other interested persons, with a view to enhancing the competitiveness of the industry;
- (d) to work with and provide advice to persons involved in the dried fruits industry with a view to improving the quality of dried fruits, the methods of producing, packing, storing and handling dried fruits and the marketing of dried fruits;
- (e) to undertake or facilitate research related to the dried fruits industry and in particular research into the quality of dried fruits, the methods of producing, packing, storing and handling dried fruits and the marketing of dried fruits;
- (f) to promote, or facilitate the promotion of, the consumption of dried fruits produced in this State;
- (g) to keep registers of all persons registered under this Act;
- (h) to keep this Act under review and make recommendations to the Minister with respect to the Act and regulations made under the Act;
- (i) to carry out any other functions assigned to the Board by the Minister that are consistent with the objects of this Act.

Five year strategic and operational plan of Board's activities

17. (1) The Board must, within 12 months after the commencement of this Act—

- (a) prepare a plan of the Board's proposed principal undertakings and activities for the ensuing five years; and
- (b) present that plan at a public meeting convened by the Board of which notice has been given in accordance with this section.

(2) The Board must, at least two weeks before the date of a meeting to be held under subsection (1)—

- (a) publish a notice of the date, time, place and purpose of that meeting in a newspaper circulating generally throughout the State; and
- (b) send a copy of that notice by post to each registered person.

(3) The Board may revise and update the plan at any time, but must present a revised plan for the ensuing five years to a public meeting (of which notice has been given in accordance with subsection (2)) at least once every 12 months after the initial presentation of the plan.

(4) The plan or revised plan must contain details of the contributions required to be paid by registered persons under this Act and any proposals for variations of those contributions.

Powers of Board

18. (1) The Board has the powers necessary or incidental to the performance of its functions.

(2) The Board may, for example—

- (a) enter into any form of contract or arrangement (including contracts or arrangements with the Board's interstate counterparts); and
- (b) employ staff or make use of the services of staff employed in the public or private sector; and
- (c) seek expert or technical advice on such terms as the Board thinks fit; and
- (d) engage consultants or other contractors; and
- (e) provide services within areas of the Board's expertise on terms and conditions (with respect to the payment of fees or any other matter) as determined by the Board; and
- (f) establish committees (consisting of members of the Board, persons who are not members of the Board or a combination of members and others) and assign to the committees advisory functions or delegated powers.

(3) An employee of the Board is not, as such, a member of the Public Service (but the Board may employ a person who is on leave from employment in the Public Service or with an instrumentality or agency of the Crown).

Delegation

19. (1) The Board may, by instrument in writing, delegate any of its functions or powers.

(2) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

(3) A delegation—

- (a) may be made subject to conditions and limitations specified in the instrument of delegation; and
- (b) is revocable at will and does not derogate from the power of the delegator to act in any matter.

(4) A delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect pecuniary or personal interest.

Penalty: Division 5 fine or division 5 imprisonment.

(5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

Accounts and audit

20. (1) The Board must cause proper accounting records to be kept in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.

12.

(2) The Board must cause the annual statements of account to be audited by a registered company auditor.

Annual report

21. (1) The Board must, on or before 31 October in every year, forward to the Minister a report on the Board's operations for the preceding financial year.

(2) The report must contain—

(a) the audited statements of account of the Board for the preceding financial year; and

(b) the five year plan prepared or revised by the Board under this Act.

(3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

**PART 3
DRIED FRUITS INDUSTRY**

DIVISION 1—REGISTRATION

Obligation to be registered as producer

22. (1) A person must not carry on a business as a producer unless that person is registered as such.

Penalty: Division 7 fine.

(2) It is a defence to a charge of an offence against this section if it is proved that neither the defendant nor a business associate of the defendant has produced dried fruits for sale before the financial year in which the offence is alleged to have been committed.

Obligation to be registered as packer

23. A person must not carry on a business as a packer unless that person is registered as such.

Penalty: Division 5 fine.

Application for registration

24. (1) An application for registration under this Act or for renewal of registration—

- (a) must be made to the Board; and
- (b) must conform to the requirements of the Board as to its form, contents and the manner in which it is made; and
- (c) must, in the case of an application for renewal of registration, be delivered to the Board not earlier than 1 April and not later than 31 May preceding the end of the period of the current registration; and
- (d) must be accompanied by the fee fixed by regulation (if any).

(2) An applicant must furnish the Board with such information or records as it reasonably requires.

(3) The Board may, if it thinks fit, determine an application for renewal of registration even though it is delivered out of time or that the period of registration has expired.

Grant of registration

25. (1) Where a person applies for registration under this Act, the Board must grant the application if satisfied—

- (a) in the case of an application for registration as a packer, that the applicant has sufficient business knowledge, experience and financial resources to properly carry on the business of processing or packing dried fruits; and
- (b) that the applicant fulfils the appropriate requirements set out in the regulations; and

14.

- (c) that the premises at which the applicant's business will be carried on, and the facilities and equipment at the premises, comply with the appropriate requirements set out in the regulations; and
- (d) that the applicant has made satisfactory arrangements to ensure compliance with any continuing obligations under this Act.

Conditions of registration

26. (1) Registration is subject to the following conditions:

- (a) the registered person will not, without the approval of the Board, carry on his or her business as a producer or packer at premises other than those specified in an application for registration or renewal of registration; and
- (b) any conditions imposed by the regulations; and
- (c) any conditions imposed by the Board.

(2) The Board must, on the application of a registered person and payment of the fee fixed by regulation, approve premises for the purposes of subsection (1)(a) if satisfied that the premises, and the facilities and equipment at the premises, comply with the appropriate requirements set out in the regulations and that the applicant has made satisfactory arrangements to ensure compliance with any continuing obligations under this Act with respect to the premises, facilities and equipment.

(3) The Board may, by notice in writing to a registered person, add to, vary or revoke any conditions of the registration of that person.

(4) The Board's power under subsection (3) may be exercised from time to time on the Board's own initiative or on application (and payment of the fee fixed by regulation) by the registered person.

(5) A variation of a condition or the imposition of a new condition will not, except with the agreement of the registered person, take effect until six months after service of the notice varying or imposing the condition.

(6) A registered person must not contravene or fail to comply with a condition of registration.

Penalty: Division 5 fine.

Duration and renewal of registration

27. (1) Subject to this Act, registration remains in force until 30 June following the grant of registration and may be renewed for successive periods of one year expiring on 30 June.

(2) On application for renewal of registration made in accordance with this Act, the Board must renew the registration.

Notification of ceasing business

28. (1) A registered person must, within 14 days after ceasing to carry on business as a producer or packer, notify the Board in writing of that fact.

Penalty: Division 8 fine.

(2) A registered person must, within 14 days after ceasing to carry on business as a producer or packer at particular premises, notify the Board in writing of that fact.

Penalty: Division 8 fine.

(3) For the purposes of this section a person will not be taken to have ceased to carry on business as a producer, or to have ceased to carry on business as a producer at particular premises, by reason only of the fact that the person did not produce dried fruits in a particular season.

Cancellation or suspension of registration

29. (1) If a registered person contravenes or fails to comply with this Act, the Board may cancel, or suspend for such period as the Board thinks fit or until further order, the registration of that person.

(2) If a registered person is in default of payment of a fee or contribution payable under this Act, the Board may suspend the registration of that person until the overdue amount is paid or satisfactory arrangements are made for payment.

(3) The Board must give a registered person at least two weeks' notice of a proposed cancellation or suspension of that person's registration.

Appeal against decisions of the Board

30. (1) An appeal lies to the District Court in its Administrative Appeals Division in the following cases:

- (a) an applicant for registration under this Act may appeal against a decision of the Board to refuse to grant the registration or to grant a conditional registration;
- (b) a registered person may appeal against a decision of the Board to impose or vary conditions of registration or to refuse to vary or revoke conditions of registration;
- (c) a registered person may appeal against a decision of the Board to suspend or cancel the registration.

(2) An appeal must be instituted within one month of the making of the decision appealed against or such longer period as the Court may allow.

(3) The Board must, if so required by a person affected by a decision made by it, state in writing the reasons for its decision.

(4) If the reasons of the Board are not given in writing at the time of making a decision and the person affected by the decision, within one month of the making of the decision, requires the Board to state its reasons in writing, the time for instituting an appeal runs from the time when the person receives the written statement of those reasons.

(5) On an appeal under this section, the Court may hear such evidence as it thinks fit, whether or not the evidence was produced before the Board.

(6) On an appeal under this section, the Court may confirm, vary or revoke the decision of the Board and make such ancillary orders (including orders for costs) as the Court thinks fit.

DIVISION 2—OTHER OBLIGATIONS OF REGISTERED PERSONS

Contributions

31. (1) The Board may require all registered persons, or registered persons of a particular class, to pay contributions to the Board towards the costs incurred, or to be incurred, by the Board in carrying out its functions under this Act.

(2) Contributions under this section and their method of payment or collection may be determined by the Board in such manner as it thinks fit and may vary according to the nature and extent of the applicant's business.

(3) Before the Board requires the initial payment of contributions by a particular class of registered persons, or varies the rate or amount of existing contributions, the Board must consult, in such manner and to such extent as it thinks fit, with the persons liable to pay the contribution concerned.

Returns

32. (1) The Board may require a registered person to provide the Board within a specified time with such information as the Board thinks necessary for the administration of this Act.

(2) A person who without reasonable excuse refuses or fails to comply with a requirement of the Board under this section is guilty of an offence.

Penalty: Division 8 fine.

DIVISION 3—INSPECTION

Appointment of inspectors

33. (1) The Board may appoint suitable persons to be inspectors for the purposes of this Act.

(2) The Board must provide an inspector appointed under this section with a certificate of appointment setting out any conditions attaching to the appointment.

(3) An inspector appointed under this section must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, powers under this Act, produce the inspector's certificate of appointment.

Powers of inspectors

34. (1) An inspector may, for any purpose connected with the administration or enforcement of this Act, exercise any of the following powers:

- (a) enter and inspect any land, premises or vehicle in which dried fruits are, or are suspected of being, produced, prepared, processed, graded, packed, handled, stored, used in a manufacturing process or transported (and, if necessary for that purpose, break open packages of dried fruits or require the driver of a vehicle to stop);

- (b) take photographs, films or video recordings;
- (c) take samples of fruits or dried fruits and, where necessary for that purpose, break open packages of dried fruits;
- (d) require a person to answer relevant questions;
- (e) require a person to produce relevant records or equipment;
- (f) inspect the records or equipment and make copies of the records or their contents or test the equipment and, where reasonably necessary for the purposes of inspection, making copies or testing, seize and retain the records or equipment;
- (g) if the inspector reasonably suspects that an offence against this Act has been or is being committed—
 - (i) require the suspected offender to state his or her full name and address;
 - (ii) require the owner or person in charge of any fruits or dried fruits in relation to which the offence is suspected of having been or being committed to take specified action (at the owner's cost and risk) to prevent their movement and ensure their safe storage or handling or to take specified action to ensure compliance with this Act;
 - (iii) remove or obliterate any false mark displayed on a package of dried fruits, take action to inform the public that dried fruits offered for sale are of a particular quality or take any other action appropriate in the circumstances;
 - (iv) seize and retain anything that may constitute evidence of the commission of the offence.

(2) An inspector must not exercise the power conferred by subsection (1)(a) in relation to any residential premises except with the permission of the occupier of the premises or on the authority of a warrant issued by a justice.

(3) A justice must not issue a warrant under subsection (2) unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.

(4) A person is not obliged to answer a question or to produce records or equipment if to do so would tend to incriminate the person.

(5) A person who—

- (a) without reasonable excuse, fails to comply with a requirement of an inspector; or
- (b) hinders or obstructs an inspector in the exercise of powers under this Act,

is guilty of an offence.

Penalty: Division 7 fine.

18.

(6) An inspector who—

- (a) speaks offensively to another in the course of exercising powers under this Act; or
- (b) hinders or obstructs another, or uses or threatens to use, force against another, without reasonable grounds to believe that the inspector has lawful authority to do so,

is guilty of an offence.

Penalty: Division 6 fine.

**PART 4
MISCELLANEOUS**

Immunity of members and inspectors

35. (1) A member of the Board or an inspector incurs no civil liability for an honest act or omission in the performance or purported performance of functions or duties under this Act.

(2) The immunity conferred by subsection (1) does not extend to culpable negligence.

(3) A civil liability that would, but for this section, attach to a member or inspector attaches instead to the Crown.

Notice

36. A notice to be given under this Act may be sent by post.

False or misleading statements

37. A person must not, in providing information under this Act, make a statement that is false or misleading in a material particular.

Penalty: Division 7 fine.

General defence

38. It is a defence to a charge of an offence against this Act if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Proceedings for offences

39. Proceedings for an offence against this Act—

(a) may be commenced at any time within 12 months after the commission of the alleged offence; and

(b) may be taken on behalf of the Board by a person authorised in writing by the Board.

Evidence

40. In any legal proceedings, a document apparently executed by the Board certifying as to a matter relating to—

(a) the appointment of an inspector pursuant to this Act; or

(b) a delegation under this Act; or

(c) registration of a person under this Act; or

(d) authorisation of a person to take proceedings under this Act; or

(e) an approval of the Board under this Act,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

Regulations

41. (1) The Governor may make regulations for the purposes of this Act.

(2) A regulation may, for example—

- (a) regulate the production, preparation, processing, handling, grading, packing, storage or transportation of dried fruits;
- (b) regulate the cleaning, maintenance or operation of premises, or facilities or equipment at premises, at which the business of a producer or packer is carried on;
- (c) regulate the marking or labelling of packages of dried fruits or prohibit or restrict the use of particular marks or labels;
- (d) regulate the sale or supply of dried fruits or prohibit or restrict the sale or supply of dried fruits in specified circumstances;
- (e) regulate the use of dried fruits in any manufacturing process;
- (f) require registered persons to keep specified records in a specified manner;
- (g) exempt (either absolutely or conditionally) specified persons or persons of a specified class from this Act or specified provisions of this Act.

(3) The regulations may—

- (a) impose a fine, not exceeding a division 5 fine, for breach of a regulation;
- (b) provide for differential fees for applications under this Act which vary according to the nature and extent of the applicant's business;
- (c) incorporate or operate by reference to a code or standard published by a specified authority as in force at a specified time or as in force from time to time.

(4) If a code or standard is referred to or incorporated in the regulations—

- (a) a copy of the code or standard must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and
- (b) evidence of the contents of the code or standard may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code or standard.

SCHEDULE

Repeal and Transitional Provisions

Repeal of Dried Fruits Act 1934

1. The *Dried Fruits Act 1934* is repealed.

Transitional provisions

2. (1) On the commencement of this Act, the *Dried Fruits Board* is dissolved and the *Dried Fruits Board (South Australia)* succeeds to all its assets, rights and liabilities.

(2) A person who was immediately before the commencement of this Act an employee of the *Dried Fruits Board* becomes, on the commencement of this Act, an employee of the *Dried Fruits Board (South Australia)* without interruption of his or her continuity of employment and on the same terms and conditions.

(3) On the commencement of this Act, a person who was registered as a producer under the repealed Act immediately before that commencement will be taken to be registered as a producer under this Act.

(4) On the commencement of this Act, a person in whose name a packing house was registered under the repealed Act immediately before that commencement will be taken to be registered as a packer under this Act.

(5) Contributions will continue to be payable in accordance with the repealed Act until the Board makes a determination under section 31.

(6) In this clause—

"repealed Act" means the *Dried Fruits Act 1934*.

APPENDIX**DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of assent to this Act divisional penalties and expiation fees are, as provided by section 28a of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.