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EGG INDUSTRY STABILIZATION ACT, 1973-1974

being

Egg Industry Stabilization Act, 1973, No. 95 of 1973 [Assented to 10th January, 1974]¹;

as amended by

Egg Industry Stabilization Act Amendment Act, 1974, No. 61 of 1974 [Assented to 26th September, 1974].

An Act to Provide for the Stabilization of the Egg Industry; for matters connected therewith and for other matters.

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

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Egg Industry Stabilization Act, 1973-1974".

Short title.
Citation
amended by 61,
1974, s. 1 (3).

2. (1) This section, section 49 and the first schedule to this Act shall come into operation on the day on which this Act is assented to by the Governor.

Commence-
ment.

(2) The remaining provisions of this Act shall, subject to section 49 of this Act, come into operation on a day to be fixed by proclamation².

3. This Act is divided as follows:—

Division of Act.

PART I—PRELIMINARY

PART II—CONSTITUTION OF THE LICENSING COMMITTEE

PART III—INSPECTION

PART IV—LICENSING OF POULTRY FARMERS

DIVISION I—CATEGORIES OF POULTRY FARMERS

DIVISION II—LICENCES

DIVISION III—DETERMINATION OF BASE QUOTAS

DIVISION IV—HEN QUOTAS AND STATE HEN QUOTA

PART V—SURRENDER AND RE-ISSUE OF LICENCES

PART VI—PERMITS TO KEEP HENS FOR SPECIAL PURPOSES

PART VII—APPEALS

DIVISION I—CONSTITUTION AND POWERS OF REVIEW TRIBUNAL

DIVISION II—APPEALS

PART VIII—MISCELLANEOUS

¹ For date of operation see s.2 of Act No. 95 of 1973 and footnote 2 on this page.

² Came into operation 23rd May, 1974: *Gaz.* 23rd May, 1974, p. 1828.

PART IX—POLLS

DIVISION I—POLL ON COMMENCEMENT OF ACT

DIVISION II—POLLS ON CONTINUATION OF ACT
SCHEDULES.

Interpretation.

Def. amended
by 61, 1974,
s. 2 (a), (b).

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

“base quota” in relation to a poultry farmer means the base quota for that poultry farmer calculated in accordance with section 19 of this Act, determined under section 20 of this Act or allotted under section 20a of this Act (as the case may require);

“broiler breeder hen” means a female domesticated fowl of the genus *gallus domesticus* which is not—

(a) a white leghorn;

(b) an Australorp, a New Hampshire, a Rhode Island red or a Langshan;

(c) a cross between a white leghorn and a breed referred to in paragraph (b) of this definition;

or

(d) a hen of a class specified in a notice under subsection (2) of this section that has taken effect under subsection (3) of this section,

being a fowl used for the purpose of producing broiler chickens:

“broiler chicken” means a chicken intended to be used otherwise than for the purpose of producing eggs:

“Commonwealth Levy Act” means the *Poultry Industry Levy Act* 1965 of the Parliament of the Commonwealth and includes any Act amending or replacing that Act;

“Commonwealth Levy Collection Act” means the *Poultry Industry Levy Collection Act* 1965 of the Parliament of the Commonwealth and includes any Act amending or replacing that Act;

“educational institution” means an institution where poultry farming is carried out for educational purposes:

“first licensing season” means the period of one year that commences on the appointed day:

“hen” means a female domesticated fowl of the genus *gallus domesticus* that is not less than six months old:

“hen quota” in relation to a poultry farmer and a licensing season means—

(a) where that licensing season is the first licensing season—the number calculated in accordance with section 23 of this Act in respect of that poultry farmer;

(b) where that licensing season is not the first licensing season and no variation in hen quotas has been made under section 24 of this Act in any preceding licensing season—the number referred to in paragraph (a) of this definition;

(c) where that licensing season is not the first licensing season and a variation has been made to the hen quotas for the preceding licensing season under section 24 of this Act—the

number to which the previous hen quota of that poultry farmer is varied under that section for that licensing season;

- (d) where that poultry farmer is a licensee under section 25 of this Act—the hen quota for that poultry farmer calculated in accordance with section 27 of this Act in respect of the licence, or the later or latest of the licences, issued to him under that section;

or

- (e) where the hen quota of that poultry farmer has been reduced pursuant to section 18 of this Act, and the hen quota as so reduced has not been varied under section 24 of this Act, the hen quota as so reduced:

“Inspector” means an inspector authorized pursuant to section 9 of this Act:

“licence” means a licence issued under this Act:

“licensee” means the holder of a licence:

“Licensing Committee” means the Poultry Farmer Licensing Committee constituted pursuant to section 6 of this Act:

“licensing season” means the first licensing season and each succeeding period of one year:

“member” in relation to the Licensing Committee includes the chairman or deputy chairman of the Licensing Committee:

“place” includes land, premises and buildings thereon:

“poultry farmer” means a person who immediately before the commencement of this Act was engaged in the business of keeping poultry for the production of eggs:

“pullet” means a hen that is less than six months old:

“relevant period” means the period of one year that ended on the second day of March, 1972:

“State hen quota” in relation to a licensing season means the number of hens determined by the Minister pursuant to section 22 of this Act as the State hen quota for that licensing season:

“the appointed day” means the day fixed by the Minister pursuant to subsection (5) of this section as the appointed day for the purposes of this section:

“the Board” means “The South Australian Egg Board” constituted under the Marketing of Eggs Act, 1941-1972¹:

“the Review Tribunal” means the Poultry Farmer Licensing Review Tribunal constituted pursuant to section 30 of this Act.

(2) The Minister may by notice published in the *Gazette* declare that hens of a class specified in the notice are not broiler breeder hens for the purposes of this Act and the Minister may by a notice published in a like manner amend or revoke any such notice.

(3) A notice published pursuant to subsection (2) of this section, or any amendment or revocation thereof shall not take effect until the expiration of three months after the day on which it is so published.

¹ Now Marketing of Eggs Act, 1941-1973.

(4) In this Act, a reference to the place to which a licence relates includes a reference to all places to which that licence relates whether or not those places are contiguous.

(5) The Minister may by notice published in the *Gazette* fix a day to be the appointed day for the purposes of this section.

Act not to
apply in certain
cases.

5. (1) This Act shall not apply to or in relation to a person who does not or, in the case of a partnership, where the members on behalf of the partnership do not own or keep more than twenty hens.

(2) Where on any prescribed day as defined by the Commonwealth Levy Act a person is not liable to pay levy under that Act, and this Act would, but for this subsection, apply to and in respect of that person during the period between that prescribed day and the next succeeding prescribed day so defined, this Act shall not apply to or in respect of that person during that period.

(3) The Governor may, by proclamation exempt from the operation of all the provisions of this Act, or any of the provisions of this Act specified in the proclamation any poultry farm owned or kept by the Crown or a body, the person or some or all of the persons constituting or comprising which are appointed by the Governor or a Minister of the Crown, or an educational institution.

(4) Where an exemption is sought pursuant to subsection (3) of this section the officer in charge of the poultry farm shall, as nominee on behalf of the Crown, body or educational institution, submit an application in writing to the Minister setting out in full the reasons why such an exemption is sought.

(5) A proclamation under this section shall take effect on the day on which the proclamation is published in the *Gazette* or, where a later day is specified in the proclamation, on that later day.

(6) A proclamation under this section shall have effect subject to such conditions as are specified in the proclamation.

(7) If the nominee in respect of a poultry farm to which a proclamation under this section relates fails to comply with or contravenes any condition subject to which the proclamation was made, the Governor may by proclamation revoke the proclamation or amend the proclamation by excluding that poultry farm from its operation.

PART II

PART II

CONSTITUTION OF THE LICENSING COMMITTEE

Poultry Farmer
Licensing
Committee.

6. (1) There shall be a Poultry Farmer Licensing Committee.

(2) The Licensing Committee shall consist of the three persons for the time being holding office as members of the Board pursuant to an appointment by the Governor under paragraph (b) of subsection (2) of section 4 of the Marketing of Eggs Act, 1941-1972¹.

(3) Each member of the Licensing Committee shall receive such remuneration and allowances as the Governor from time to time determines.

¹ Now Marketing of Eggs Act, 1941-1973.

(4) A member of the Licensing Committee shall not, as such, be subject to the Public Service Act, 1967-1972¹, but nothing in this subsection shall affect the application of that Act to a member who is otherwise subject to that Act.

(5) The Licensing Committee shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

(6) The Licensing Committee may, by arrangement with the Board, make use of officers or servants of the Board for the purpose of exercising and discharging its powers, authorities, duties and functions under this Act.

(7) The Board may appoint a secretary to the Licensing Committee from amongst the officers or servants of the Board and may at any time revoke such appointment and appoint some other such officer or servant to be secretary in his stead.

7. (1) The procedure for the calling of meetings of the Licensing Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Licensing Committee.

Meetings of the
Licensing
Committee.

(2) The chairman for the time being of the Board shall be the chairman of the Licensing Committee and the deputy chairman of the Board shall be the deputy chairman of the Licensing Committee.

(3) The chairman, or in his absence, the deputy chairman, shall preside at a meeting of the Licensing Committee.

(4) Two of the members of the Licensing Committee for the time being shall form a quorum and any duly convened meeting of the Licensing Committee at which a quorum is present shall be competent to transact any business of the Licensing Committee and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Licensing Committee.

(5) The member presiding at a meeting of the Licensing Committee shall, in the event of an equality of votes, have a second or casting vote in addition to a deliberative vote.

(6) A decision supported by the majority of votes of the members present at a meeting of the Licensing Committee shall be the decision of that Committee.

(7) The Licensing Committee shall cause accurate minutes to be kept of its proceedings at meetings.

8. (1) An act or proceeding of the Licensing Committee shall not be invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of a member of the Committee.

Acts, etc., of
Licensing
Committee.

(2) No matter or thing done by the Licensing Committee and no matter or thing done by any member thereof or by any other person acting under the direction of the Licensing Committee shall, if the matter or thing was done in good faith in the execution or purported execution of this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

¹ Now Public Service Act, 1967-1975.

(3) The Licensing Committee shall not, for any purpose, represent the Crown.

PART III

PART III

INSPECTION

Inspectors.

9. (1) The Licensing Committee may authorize an officer or servant of the Board to be an Inspector for the purposes of this Act and any person so authorized shall be such an Inspector.

(2) An Inspector shall be provided by the Licensing Committee with a certificate of identification in the prescribed form.

Powers of Inspectors.

10. (1) An Inspector shall have and may exercise and perform all the powers, authorities, duties and functions conferred or imposed on him by this Act and, without affecting the generality of the foregoing, where he believes on reasonable grounds that a place or vehicle—

(a) is being used as a poultry farm or chicken hatchery;

(b) is being used for or in connection with the operations of a poultry farm or chicken hatchery;

or

(c) is being used for the storage or custody of any accounts, records, books, documents or other things whatsoever relating to the operations of a poultry farm or chicken hatchery,

he may, subject to this section, enter and remain in or on that place or vehicle, and may—

(d) search and inspect the place or vehicle for the presence of hens, pullets or broiler breeder hens;

(e) examine and count any hens, pullets and broiler breeder hens found in or on that place or vehicle;

and

(f) require any person found in or on that place or vehicle to produce any accounts, records, books, documents, goods, packages, parcels or other things which relate to, or which the Inspector believes on reasonable grounds relate to, the operations of a poultry farm or chicken hatchery, and may inspect them and may take copies of or extracts or notes from any such accounts, records, books, documents or other things.

(2) An Inspector who in or on any place or vehicle is exercising or performing any power, authority, duty or function under this Act shall, if so required by a person apparently in charge of that place or vehicle, produce his certificate of identification to that person.

(3) An Inspector may be accompanied by and use the services of such persons as he considers necessary to assist him in the exercise and performance of his powers, authorities, duties and functions under this Act.

(4) Where a part of premises is used for residential purposes, an Inspector is not, without the permission of the occupier of that part of those premises, authorized by this section to enter in or on, or to search or inspect, that part

of those premises, and paragraph (f) of subsection (1) of this section does not apply to a person in or on that part of those premises.

(5) A person who—

(a) delays, obstructs, hinders or impedes—

(i) an Inspector in the exercise or performance of his powers, authorities, duties or functions under this Act;

or

(ii) a person assisting an Inspector in the exercise or performance of his powers, authorities, duties or functions under this Act;

or

(b) fails to comply with any requirement made under paragraph (f) of subsection (1) of this section,

shall be guilty of an offence against this Act.

11. (1) An Inspector who finds a person committing an offence against this Act or who finds a person whom, on reasonable grounds, he suspects of having committed or attempted to commit any such offence, may require that person to state his name and place of abode.

Inspector may demand name and address in certain circumstances.

(2) A person who upon a requirement made under subsection (1) of this section—

(a) fails or refuses to state his name or place of abode;

or

(b) states a name that is not his name or a place of abode that is not his place of abode,

shall be guilty of an offence against this Act.

12. A person who—

Impersonating an Inspector.

(a) forges or counterfeits any written evidence of appointment of an Inspector;

(b) makes use of any forged, counterfeited or false written evidence of such an appointment;

(c) impersonates an Inspector;

or

(d) falsely pretends to be an Inspector,

shall be guilty of an offence against this Act.

PART IV

PART IV

LICENSING OF POULTRY FARMERS

DIVISION I—CATEGORIES OF POULTRY FARMERS

DIVISION I

13. (1) For the purposes of this Act—

Poultry farmers.

(a) a Group I poultry farmer is a poultry farmer who, alone or as a partner owns or leases a place and who during the relevant period and during the period of one year ending on the first day of

March, 1973, submitted in respect of hens kept by him at that place at least thirteen notices in writing pursuant to Regulation 4 of the regulations made under the Commonwealth Levy Collection Act for each such period and was liable to pay an amount of levy imposed by the Commonwealth Levy Act in respect of hens kept at that place and paid all such amounts for which he was liable and who has not, pursuant to subsection (2) of this section, elected to be regarded as a Group II poultry farmer;

and

(b) a Group II poultry farmer is a poultry farmer who is not a Group I poultry farmer.

(2) A poultry farmer who, but for this subsection, would have been a Group I poultry farmer, may subject to subsection (3) of this section, by notice in the prescribed form to the Licensing Committee elect to be regarded as a Group II poultry farmer.

Subsec. (3)
amended by 61,
1974, s. 3.

(3) An election under subsection (2) of this section shall have no force or effect unless it is received by the Licensing Committee before the expiration of the twenty-eighth day next following the day fixed by proclamation for the purposes of this section.

DIVISION II

DIVISION II—LICENCES

Offence to keep
hens other than
broiler breeder
hens without
holding a
licence.

14. (1) Subject to section 5 of this Act a person who, during a licensing season, owns or keeps hens without being the holder of a licence issued in relation to that licensing season shall be guilty of an offence against this Act unless the hens are broiler breeder hens owned or kept pursuant to a permit under section 28 of this Act.

(2) A licensee who, during a licensing season, owns or keeps hens which are kept otherwise than in accordance with the conditions or restrictions to which his licence is subject shall be guilty of an offence against this Act unless the hens are kept in accordance with a permit issued under Part VI of this Act.

(3) A licensee who, during a licensing season, owns or keeps hens which are kept at a place other than the place to which his licence relates shall be guilty of an offence against this Act unless the hens are kept in accordance with a permit issued under Part VI of this Act.

(4) The penalty for an offence against this Act referred to in this section shall be a penalty not exceeding one thousand dollars and, in addition, a penalty of not less than two dollars nor more than five dollars for each one hundred hens or part thereof, in respect of the owning or keeping of which the offence occurred, for every day during which the offence continues.

Licences.

15. (1) Where in relation to a licensing season, a poultry farmer applies to the Licensing Committee in the prescribed manner and on demand by the Licensing Committee pays to the Licensing Committee the prescribed annual fee for a licence for that licensing season, the Licensing Committee shall issue to the applicant a licence for that licensing season.

(2) An application under subsection (1) of this section may be made on behalf of a partnership of which the applicant is a member and, where such an application is made, the licence may be issued in the name of the partnership or in the names of the members of the partnership.

(3) In the case of a licence referred to in subsection (2) of this section that is issued in the name of a partnership each member of the partnership to which

the licence relates shall be deemed to be a licensee in respect of the licensed place to which the licence relates.

(4) An application under subsection (1) of this section made on behalf of the Crown or a body, the person or some or all of the persons constituting which are appointed by the Governor or a Minister of the Crown, or an educational institution, shall be so made by a person (who shall be and be named in the application as the officer, in the public service or of the body or the educational institution, in charge of the relevant poultry farm) as nominee, and for the purposes of this Act the nominee in his capacity as such shall be the person who keeps the hens and who is eligible to apply for and entitled to the licence.

(5) A licence shall not be issued in respect of a place which is, or a part of which is, a place to which another licence relates.

(6) The Licensing Committee may, in respect of each licensing season by notice published in the *Gazette* fix a day as the last day on which applications may be made for a licence for that season, which shall be not less than thirty days after the publication of the notice.

(7) The Licensing Committee shall not deal with an application for a licence under this section received after the day fixed pursuant to subsection (6) of this section.

(8) A licence shall continue in force until it is cancelled, surrendered or expires at the end of the licensing season for which it was issued.

16. (1) A licence shall contain a description of the place to which it relates and shall specify that the conditions to which it is subject include—

Conditions
applicable to
licence.

(a) a condition that during a licensing season, the licensee will not keep or permit to be kept at that place—

(i) hens that exceed in number by more than twenty the hen quota of the licensee for that licensing season;

Subpara. (i)
amended by 61,
1974, s. 4.

or

(ii) broiler breeder hens,

except in accordance with a permit issued under Part VI of this Act;

and

(b) any other prescribed conditions and restrictions.

(2) For the purposes of subparagraph (i) of paragraph (a) of subsection (1) of this section where a licence is held by a partnership the number of hens that a member of the partnership keeps or permits to be kept at a place to which the licence relates shall be the number of hens that bears to the total number of hens kept at that place (excluding hens kept in accordance with a permit under Part VI of this Act) the same proportion as his share of the profits of the partnership bears to the total profits of the partnership.

17. (1) The Licensing Committee, shall on receipt of an application for a licence in respect of a licensing season determine, in accordance with the regulations, the annual fee that is payable in respect of that licence.

Annual licence
fee.

(2) The Licensing Committee shall not issue an applicant a licence for a licensing season until the annual fee determined pursuant to subsection (1) of this section has been paid to the Licensing Committee.

PART IV

DIVISION IICancellation of
licence.**18. (1) The Licensing Committee may cancel a licence—**

- (a) for a breach of a condition or restriction to which the licence is subject;
- (b) if the licensee has been convicted of an offence against this Act;
- (c) if in the opinion of the Licensing Committee a licence was issued as a result of false or misleading information furnished to the Licensing Committee or to the Review Tribunal;
- (d) if in the opinion of the Licensing Committee the licensee, without reasonable excuse, proof of which shall lie upon him, fails to keep the number of hens represented by his hen quota;

or

- (e) at the request of the licensee.

(2) Where the Licensing Committee is of the opinion that the fault of the licensee is not so serious as to warrant a cancellation of his licence, the Committee may, instead of cancelling the licence, reduce the hen quota of the licensee by such number as the Committee considers appropriate.

(3) The cancellation of a licence under paragraph (a), (b), (c) or (d) of subsection (1) of this section or the reduction of a hen quota for the reason set out in subsection (2) of this section shall remain in abeyance until—

- (a) the expiration of the time for lodging an appeal against the cancellation or reduction;

or

- (b) where such an appeal is duly lodged under section 35 of this Act until the giving of the decision on the appeal.

DIVISION III

DIVISION III—DETERMINATION OF BASE QUOTAS

Base quota for
a Group I
poultry farmer.**19. The base quota for a Group I poultry farmer shall be—**

- (a) in the case of such a poultry farmer carrying on business on his own account, a number equal to the greatest number of hens in respect of which he was liable to pay an amount of levy imposed by the Commonwealth Levy Act during the relevant period;

and

- (b) in the case of such a poultry farmer carrying on business as a member of a partnership or firm, a number equal to the greatest number of hens in respect of which the partnership or firm was liable to pay an amount of levy imposed by the Commonwealth Levy Act during the relevant period multiplied by the proportion, expressed as a fraction, of the profits of the partnership or firm to which the poultry farmer is entitled.

Base quota for
a Group II
poultry farmer.**20. (1) The base quota for a Group II poultry farmer shall be—**

- (a) if that Group II poultry farmer—

- (i) acquired the property, in respect of which the base quota is to be determined, from a person who, had this Act been in force immediately before the day on which that

poultry farmer acquired the property, would have been a Group I poultry farmer;

and

(ii) had not made an election under subsection (2) of this section,

a number equal to the base quota that the person, from whom that poultry farmer acquired the property, would have been entitled under this Act;

or

(b) in any other case—

(i) in the case of such a poultry farmer carrying on business on his own account, a number equal to the average number of hens in respect of which he was liable to pay an amount of levy imposed by the Commonwealth Levy Act in the prescribed period;

and

(ii) in the case of such a poultry farmer carrying on business as a member of a partnership or firm, a number equal to the average number of hens in respect of which the partnership or firm was liable to pay an amount of levy imposed by the Commonwealth Levy Act in the prescribed period multiplied by a proportion, expressed as a fraction, of the profits of the partnership or firm to which the poultry farmer is entitled.

(2) A Group II poultry farmer may, subject to subsection (3) of this section, by notice in the prescribed form to the Licensing Committee elect to have his base quota determined by reference to paragraph (b) of subsection (1) of this section.

(3) An election under subsection (2) of this section shall have no force or effect unless it is received by the Licensing Committee before the expiration of the twenty-eighth day next following the day fixed by proclamation for the purposes of this section.

Subsec. (3)
amended by 61,
1974, s. 5.

(4) In this section—

“acquired” in relation to a property, includes acquired by devolution or testamentary disposition:

“the prescribed period” in relation to a poultry farmer, means the period of one year concluding on and including the twenty-ninth day of June, 1973, or if that poultry farmer has not been liable to pay an amount of levy imposed by the Commonwealth Levy Act during the whole of that period, the period that falls within that first mentioned period in respect of which he was liable to pay that levy.

20a. Notwithstanding any other provision of this Act, where in the opinion of the Licensing Committee a special case exists in relation to a poultry farmer, the Committee, if it is of the opinion that it is equitable and proper so to do, may—

Licensing
Committee may
allot base
quotas in
special cases.
S. 20a enacted
by 61, 1974,
s. 6.

(a) allot to that poultry farmer a base quota greater than the base quota to which apart from this section the poultry farmer would be entitled;

or

DIVISION III

(b) allot to that poultry farmer a base quota when apart from this section that poultry farmer would not be entitled to a base quota.

Committee to
notify applicant
of his base
quota.

21. The Licensing Committee shall notify an applicant for a licence of his base quota as soon as practicable.

DIVISION IV

DIVISION IV—HEN QUOTAS AND STATE HEN QUOTA

State hen
quota.

22. For the purposes of this Act, the number of hens that constitutes the State hen quota for a licensing season is the number fixed by the Minister, by notice published in the *Gazette*, as the State hen quota for that licensing season.

Calculation of
hen quotas.

23. (1) Subject to this section the hen quota of a Group I or Group II poultry farmer in respect of the first licensing season shall be calculated to the nearest whole number in accordance with the formula—

$$c = \frac{df}{e}$$

where—

“c” represents the number of hens that is the hen quota of the poultry farmer;

“d” represents the State hen quota for the first licensing season;

“e” represents the total of all base quotas to which applicants for licences are entitled under this Act;

“f” represents the base quota of the poultry farmer.

(2) Notwithstanding anything in subsection (1) of this section—

(a) in no case shall the hen quota of the poultry farmer (including his proportion of the hen quotas of any partnership of which he is a member) or the total of the hen quotas of the members of a partnership exceed fifty thousand;

(b) where the poultry farmer is a corporation within the meaning of the Companies Act, 1962-1972¹, in no case shall the total of the hen quotas of that corporation and of corporations that by reason of subsection (5) of section 6 of that Act are deemed to be related to the first mentioned corporation exceed fifty thousand.

(3) The Licensing Committee shall notify an applicant for a licence of his hen quota at the same time as the issue to him of the licence.

Hen quotas in
subsequent
licensing
seasons.

24. (1) Subject to this section where in respect of any licensing season subsequent to the first licensing season the State hen quota is varied the hen quota of a Group I or Group II poultry farmer for the relevant licensing season shall be calculated to the nearest whole number in accordance with the formula—

$$g = \frac{hk}{j}$$

where—

“g” represents the number of hens that is the hen quota of the poultry farmer for the relevant licensing season;

“h” represents the State hen quota for the relevant licensing season;

¹ Now Companies Act, 1962-1974.

“j” represents the State hen quota for the preceding licensing season;

“k” represents the hen quota of the poultry farmer for the preceding licensing season.

(2) Notwithstanding anything in subsection (1) of this section—

(a) in no case shall the hen quota of the poultry farmer (including his proportion of the hen quotas of any partnership of which he is a member) or the total of the hen quotas of the members of a partnership exceed fifty thousand;

and

(b) where the poultry farmer is a corporation within the meaning of the Companies Act, 1962-1972¹, in no case shall the total of the hen quotas of that corporation and of corporations that by reason of subsection (5) of section 6 of that Act are to be deemed to be related to the first mentioned corporation exceed fifty thousand.

(3) Where the State hen quota in respect of any licensing season is not varied from the State hen quota for the licensing season immediately preceding, the hen quota of a Group I or Group II poultry farmer for the relevant licensing season shall, subject to this Act, be the same as that allocated to him for the licensing season immediately preceding that relevant licensing season.

(4) The Licensing Committee shall notify an applicant for a licence for the relevant season of his hen quota at the same time as the issue to him of the licence for that season.

PART V

PART V

SURRENDER AND RE-ISSUE OF LICENCES

25. (1) Subject to this section and section 26 of this Act where a licensee applies to the Licensing Committee in the prescribed form and pays the prescribed fee, the Licensing Committee may, upon the surrender to it of the applicant's licence—

Surrender, etc.
of licences.

(a) cancel the applicant's licence and issue a licence to another person specified in the application;

(b) cancel the applicant's licence and issue to him a fresh licence relating to a place that is not identical with the place to which the cancelled licence related;

or

(c) cancel the applicant's licence, reduce his hen quota and—

(i) issue a fresh licence to the applicant;

and

(ii) issue a licence to another person specified in the application,

as may be requested in the application.

(2) An application under paragraph (c) of subsection (1) of this section may be made in respect of the whole or any part of a hen quota.

¹ Now Companies Act, 1962-1974.

(3) The Licensing Committee shall not approve an application under subsection (1) of this section—

- (a) where the approval would involve the cancellation of a licence or the reduction in the hen quota of a licence relating to a place within an area specified in the second schedule and the issue of a licence or the increase in the hen quota of a licence relating to a place not within that area unless, in the opinion of the Licensing Committee, it is in the interests of the poultry industry so to do;
- (b) in so far as such an approval would increase the hen quota of a person (including his proportion of the hen quotas of any partnership of which he was a member), or the total of the hen quotas of the members of a partnership to more than fifty thousand;

and

- (c) where the poultry farmer is a corporation within the meaning of the Companies Act, 1962-1972¹, in so far as the total of the hen quotas of that corporation and of corporations that by reason of subsection (5) of section 6 of that Act are deemed to be related to the first mentioned corporation would exceed fifty thousand.

(4) The Licensing Committee may refuse an application where the applicant or person to whom or a member of the partnership to which the licence would be issued has been convicted of an offence against this Act or the Commonwealth Levy Act or the Commonwealth Levy Collection Act or where the Licensing Committee has reasonable grounds for believing that the application is in furtherance of an agreement, arrangement or scheme to circumvent or take undue advantage of the provisions of paragraph (b) or (c) of subsection (3) of this section.

Status of
certain
licensees.

26. (1) A person whose licence is cancelled under paragraph (a) of subsection (1) of section 25 of this Act shall cease to be a poultry farmer for the purposes of this Act.

(2) Where, immediately before the issue of a licence under section 25 of this Act the licensee was not a poultry farmer for the purposes of this Act he shall, while he holds the licence, be deemed to be a poultry farmer for those purposes.

Calculation of
certain hen
quotas.

27. (1) Where, pursuant to an application under subsection (1) of section 25 of this Act—

- (a) a licence is issued under paragraph (a) of that subsection—the hen quota of the licensee after the issue of the fresh licence is the total of the hen quota of the applicant immediately before the cancellation of his licence and the hen quota (if any) of the licensee immediately before the issue of the licence;
- (b) a licence is issued under paragraph (b) of that subsection—the hen quota, of the licensee remains unchanged;

or

- (c) a licence is issued under paragraph (c) of that subsection—

- (i) the hen quota of the original licensee after the issue of the fresh licence is the reduced hen quota approved pursuant to the application;

and

¹ Now Companies Act, 1962-1974.

- (ii) the hen quota of the other person after the issue of the fresh licence is the total of a hen quota equal to the reduction so effected.

PART VI

PART VI

PERMITS TO KEEP HENS FOR SPECIAL PURPOSES

28. (1) Where a person applies to the Licensing Committee in the prescribed form and pays the prescribed fee, the Licensing Committee may grant him a permit authorizing him to keep broiler breeder hens, or hens other than hens used for the production of eggs, for human consumption. Permits.

(2) A permit under this section is issued subject to such conditions and restrictions as may be prescribed.

(3) A permit under this section may be cancelled by the Licensing Committee—

(a) for a breach of a condition or restriction to which it is subject;

or

(b) where the Licensing Committee is satisfied that it has been issued on false or misleading information.

(4) The cancellation of a permit under subsection (3) of this section shall remain in abeyance until—

(a) the expiration of the time for lodging an appeal against the cancellation;

or

(b) where such an appeal is duly lodged under section 35 of this Act until the giving of the decision on the appeal,

and shall not take effect if an appeal is duly lodged and is upheld.

(5) Subject to subsections (3) and (4) of this section a permit under this section shall continue in force during the period specified in the permit, but this subsection shall not operate to prevent the Licensing Committee from granting a permit under this section to a person who holds such a permit that is about to expire or to a person who held such a permit that has expired. Subsec. (5) amended by 61, 1974, s. 7 (a).

(6) A person who contravenes or fails to comply with a condition or restriction to which a permit issued to him under this section is subject is guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars and, in addition, a penalty not exceeding one hundred dollars for every day during which the offence continues. Subsec. (6) amended by 61, 1974, s. 7 (b).

PART VII

PART VII

APPEALS

DIVISION I—CONSTITUTION AND POWERS OF REVIEW TRIBUNAL

DIVISION I

29. (1) There shall be a Poultry Farmer Licensing Review Tribunal which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this Act.

Poultry Farmer
Licensing
Review
Tribunal.

(2) The Review Tribunal may do all acts necessary for or incidental to the exercise or discharge of the powers, authorities, duties or functions conferred or imposed upon it by or under this Act.

Constitution of
Review
Tribunal.

30. (1) The Poultry Farmer Licensing Review Tribunal shall be constituted of a person who shall be a legal practitioner within the meaning of the Legal Practitioners Act, 1936-1969¹, appointed by the Governor.

(2) The person constituting the Review Tribunal shall receive such remuneration and allowances as the Minister from time to time determines.

(3) The Governor may, at any time, remove a person constituting the Review Tribunal from office.

(4) From amongst the officers of the branch of the public service of the State known as the Department of Agriculture² the Minister shall appoint a secretary to the Review Tribunal and may at any time revoke such appointment and appoint some other such officer to be secretary in his stead.

(5) No matter or thing done by the Review Tribunal and no matter or thing done by any person acting under the direction of the Review Tribunal shall, if the matter or thing was done in good faith for the purpose or purported purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(6) The Review Tribunal shall not, for any purpose, represent the Crown.

Procedure
before Tribunal.

31. The procedure for the conduct of business before the Review Tribunal shall, subject to this Act, be as determined by the Review Tribunal.

Service of
officers.

32. For the purposes of the exercise of its powers and functions under this Act, the Review Tribunal may with the consent of the Minister concerned make use of the services of any person employed in a department of the public service of the State.

Functions of
Review
Tribunal.

33. The Review Tribunal shall hear and determine appeals submitted pursuant to this Act.

Decisions of
Review
Tribunal final.

34. The decisions of the Review Tribunal shall be final and without appeal.

DIVISION II

DIVISION II—APPEALS

Appeals.

35. (1) Subject to this section, where the Licensing Committee—

(a) cancels a licence for a reason set out in paragraph (a), (b), (c), or (d) of subsection (1) of section 18 of this Act;

(b) reduces a hen quota pursuant to subsection (2) of section 18 of this Act;

(c) refuses an application made pursuant to section 25 of this Act;

or

(d) refuses to grant a permit or cancels a permit pursuant to section 28 of this Act,

the licensee or applicant, as the case may be, may, within the prescribed time and in the prescribed manner, appeal to the Review Tribunal against the cancellation, reduction or refusal.

¹ Now Legal Practitioners Act, 1936-1972.

² For interpretation of reference to the Department of Agriculture see proclamation under the Public Service Act, 1967-1975: *Gaz.* 6th November, 1975, p. 2340.

(2) On an appeal under subsection (1) of this section the Review Tribunal may uphold the appeal or confirm or vary the decision of the Licensing Committee or may substitute for the decision appealed against a decision that the Licensing Committee is empowered to make and—

- (a) any such substituted decision shall be deemed always to have been the decision of the Licensing Committee in lieu of the decision for which it is substituted;

and

- (b) subsection (1) of this section shall not apply to or in respect of any such substituted decision.

(3) Where the appeal relates to the reduction of a hen quota the Review Tribunal may, in varying the decision appealed against, raise or further reduce that hen quota.

(4) The regulations may provide for the lodging of a deposit with the Review Tribunal by an appellant under subsection (1) of this section and for its forfeiture to the Licensing Committee where the Review Tribunal in giving its decision on the appeal, specifies that, in its opinion, the appeal was vexatious or frivolous.

PART VIII

PART VIII

MISCELLANEOUS

36. The remuneration and allowances payable to the members of the Licensing Committee and the Review Tribunal under this Act, and all other costs of administration of this Act shall be paid by the Board out of the funds of the Board.

Board to pay remuneration and allowances of members and cost of administration.

37. All fees paid and charges collected under this Act shall become part of the funds of the Board.

Fees, etc., paid under this Act.

38. (1) A person who—

- (a) keeps more than twenty broiler breeder hens;
- (b) occupies any place on, at or in which hen eggs from more than twenty hens are hatched;

or

- (c) is a licensee,

shall, in the prescribed manner, make and keep a record of such particulars and matters as are prescribed.

Records to be kept by certain persons.

(2) A person referred to in subsection (1) of this section shall—

- (a) keep the records so referred to for a period of two years after they are made;

and

- (b) at the prescribed times forward to the prescribed person copies of those records or such of them as relate to prescribed times or matters.

(3) A record made and kept under this section is evidence of the particulars and matters stated therein.

(4) A person who knowingly makes or causes or permits or allows to be made any false or misleading statement in any record required to be made under this section or in any copy (or purported copy) of that record required to be forwarded under paragraph (b) of subsection (2) of this section is guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

Committees
may require
information
from applicants.

39. (1) The Licensing Committee or the Review Tribunal may, by notice in writing served on an applicant to it, require the applicant to furnish, within such period as may be specified in the notice, such information relating to the application as it thinks fit, and may itself make or cause to be made such inquiries as it thinks fit, for the purpose of determining whether the information contained in the application is correct.

(2) The Licensing Committee or the Review Tribunal, as the case may be, may require information furnished by an applicant under subsection (1) of this section to be verified by statutory declaration.

(3) Where the Licensing Committee or the Review Tribunal requires a person to furnish information under this section and has not issued him with a licence, reviewed his base quota, allocated him a base quota or cancelled his licence pursuant to section 25 of this Act (as the case may be), and the person fails to furnish such information within the period specified or any extended period granted by the Committee or Tribunal, the Committee or Tribunal, as the case may be, may refuse his application.

Cancellation of
licence.

40. Where a licence is cancelled otherwise than pursuant to section 25 of this Act the former holder of the licence shall, if required by the Licensing Committee to forward the licence to it within a specified period, comply with that requirement.

Members of
Licensing
Committee not
to vote on a
matter in which
interested.

41. (1) A member of the Licensing Committee shall not exercise his vote at a meeting of the Committee of which he is a member in respect of a matter that directly affects his pecuniary interests and, if he does so, his vote shall not be counted.

(2) A member of the Licensing Committee shall leave a meeting of the Committee during any discussion on a matter in respect of which he is, by subsection (1) of this section disqualified from voting.

Annual report.

42. (1) As soon as practicable after the end of each licensing season the Chairman of the Licensing Committee shall present a report to the Minister setting out the substance of its activities during that licensing season.

(2) The Minister shall cause every report of the Licensing Committee made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

Minister may
require further
information.

43. The Licensing Committee and the Review Tribunal shall furnish to the Minister, within a time specified by him, such reports, advice and information concerning the operations of the Licensing Committee or the Review Tribunal, as the case may be, as the Minister may direct.

Penalty.

44. Any person who contravenes or fails to comply with a provision of this Act for which no penalty is otherwise expressly provided is guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars.

45. Proceedings for offences against this Act shall be disposed of summarily.

Summary proceedings.

46. (1) If a person who commits an offence against this Act is a body corporate, the natural person whose act or omission constituted the offence and also (unless he proves that the act or omission constituting the offence took place without his knowledge or consent) every person concerned in the management of the affairs of the body corporate may be charged with and convicted of the like offence.

Offences by corporations, etc.

(2) If two or more persons are responsible for the same offence, each of those persons shall be guilty of the offence, and the liability of each of them shall be independent of the liability of the other or others.

47. The Governor may by proclamation suspend the operation of all or any of the provisions of this Act for a period specified in the proclamation and may by subsequent proclamation amend or revoke any such proclamation.

Governor may suspend the operation of provisions of this Act.

48. (1) The Governor may make regulations, not inconsistent with this Act, for and with respect to—

Regulations.

- (a) any of the powers conferred upon or duties imposed upon the Minister, the Licensing Committee or the Review Tribunal by this Act;
- (b) the making and keeping of records by a licensee or the holder of a permit issued under this Act or by a person under section 38 of this Act, the inspection of those records and the production of those records in any legal proceedings;
- (c) the conditions and restrictions to which a licence may be subject;
- (d) the manner and time of lodgement of appeals and the deposit payable by an appellant;
- (e) the conduct of business before the Review Tribunal;
- (f) the conditions and restrictions to which a permit under Part VI of this Act may be subject;
- (g) fees for the purposes of this Act;
- (h) the forms to be used for the purposes of this Act;
- (i) all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and

- (j) fixing any penalties not exceeding five hundred dollars or, in the case of a continuing offence, not exceeding one hundred dollars for each day during which the offence continues, for non-compliance with or contravention of any regulation.

(2) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.

PART IX

PART IX

POLLS

DIVISION I

DIVISION I—POLL ON COMMENCEMENT OF ACT

Poll on
substantial
commencement
of Act.

49. (1) The Governor may make a proclamation under subsection (2) of section 2 of this Act at any time after the expiration of the period of twenty-eight days next following the day on which this Act is assented to by him unless, before the expiration of that period a petition has been presented to the Minister of Agriculture signed by not less than one hundred persons each of whom is, pursuant to the Marketing of Eggs Act, 1941-1972¹, entitled to have his name included on the roll of electors for a district, praying that a poll shall be conducted in accordance with the succeeding provisions of this section and if such a petition is so presented the Governor shall not make a proclamation under that subsection until the result of the poll is known.

(2) As soon as a petition referred to in subsection (1) of this section is presented to the Minister, the returning officer for the State² appointed under the Electoral Act, 1929-1973³, shall take a poll on the question whether this Act shall be brought into operation.

(3) Every person who, pursuant to the Marketing of Eggs Act, 1941-1972¹, is entitled to have his name included on the roll of electors for a district, is entitled to one vote at the poll.

(4) The Minister shall prepare and supply or cause to be prepared and supplied to the returning officer for the State² a list containing the names of the persons and addresses who are, in his opinion, entitled to vote at the poll and the persons whose names appear on that list and no others shall be entitled to vote at the poll but the Minister may amend the list at any time before the ballot papers are posted.

(5) A poll under this section shall be held and conducted by the returning officer for the State²—

(a) by postal voting;

and

(b) in accordance with directions of the returning officer for the State².

(6) The ballot paper shall be in the form set out in the first schedule to this Act.

(7) A voter shall indicate his vote in the following manner:—

(a) if he desires that this Act shall come into operation—by placing the number 1 in the square opposite the word “Yes” and the number 2 in the square opposite the word “No”;

and

(b) if he does not desire that this Act shall come into operation—by placing the number 1 in the square opposite the word “No” and the number 2 in the square opposite the word “Yes”,

but a ballot paper shall not be informal solely because the voter has indicated his preference by placing in one square the number 1 or a cross, and by leaving

¹ Now Marketing of Eggs Act, 1941-1973.

² By s. 6f of the Electoral Act, 1929-1973, it was provided, *inter alia*, that where in any other Act a reference is made to the Returning Officer for the State that reference shall on and after the commencement of the Electoral Act Amendment Act (No. 2), 1973, be read as a reference to the Electoral Commissioner.

³ Now Electoral Act, 1929-1975.

the other square blank, and if he so votes by a cross that cross shall be deemed to be equivalent to the figure 1.

(8) If the question asked at the poll is answered in the affirmative by the majority of the formal votes cast at the poll the Governor may make a proclamation under subsection (2) of section 2 of this Act.

(9) If the question asked at the poll is not answered in the affirmative by the majority of the formal votes cast at the poll the Governor shall not make a proclamation under subsection (2) of section 2 of this Act.

(10) If the question asked at the poll is not answered in the affirmative by the majority of the formal votes cast at the poll the Minister may publish notice of that fact in the *Gazette* and, upon the publication of that notice, this Act shall, for all purposes, be deemed to be repealed by an Act.

(11) A poll under this section shall not be invalid by reason of any defect or any informality unless that defect or informality has affected the decision given on the question submitted at the poll.

DIVISION II—POLLS ON CONTINUATION OF ACT

DIVISION II

50. (1) Subject to subsection (2) of this section, if at any time after the expiration of a period of three years next following the day fixed by proclamation under subsection (2) of section 2 of this Act, there is presented to the Minister a petition signed by not less than one quarter of the number of persons who are, pursuant to the Marketing of Eggs Act, 1941-1972¹ entitled to have their name included on the roll of electors for a district, requesting that a poll be taken on the question whether this Act shall continue in operation, the returning officer for the State² appointed under the Electoral Act, 1929-1973³, shall, as soon as practicable after he receives a list of voters as provided by subsection (3) of this section, hold a poll in accordance with this section.

Polls on
continuation of
this Act.

(2) A poll under this section shall not be held within three years after the holding of any previous poll under this section.

(3) Every person who, pursuant to the Marketing of Eggs Act, 1941-1972¹, is entitled to have his name included on the roll of electors for a district is entitled to one vote at the poll.

(4) The Minister shall, within three months after the presentation of a petition under subsection (1) of this section, prepare and supply or cause to be prepared and supplied to the returning officer for the State² a list containing the names of the persons who are in his opinion entitled to vote at the poll and the persons whose names appear on the list and no others shall be entitled to vote at the poll but the Minister may amend the list at any time before the ballot-papers are posted.

(5) A poll under this section shall be held and conducted by the returning officer for the State²—

(a) by postal voting;

and

(b) in such manner as the returning officer for the State² deems proper.

¹ Now Marketing of Eggs Act, 1941-1973.

² By s. 6f of the Electoral Act, 1929-1973, it was provided, *inter alia*, that where in any other Act a reference is made to the Returning Officer for the State that reference shall on and after the commencement of the Electoral Act Amendment Act (No. 2), 1973, be read as a reference to the Electoral Commissioner.

³ Now Electoral Act, 1929-1975.

(6) The Governor may, on the recommendation of the returning officer for the State¹, make regulations prescribing and providing for any matters necessary or convenient to be prescribed or provided for in relation to a poll to be held under this section.

(7) If not less than thirty per cent of the number of the voters who are entitled to vote at the poll so vote and of the voters so voting not less than sixty per cent of the number of voters vote against the continuance of this Act, the Governor shall, by proclamation or by successive proclamations—

(a) declare that the Licensing Committee shall be wound up and, if necessary, appoint a person to be liquidator of the Licensing Committee;

(b) fix a day or days upon which the provisions of this Act will cease to have any force or effect and may so fix different days in respect of different provisions of this Act;

and

(c) fix a day (not being earlier than any day fixed under paragraph (b) of this subsection) as the day upon which this Act shall expire.

(8) A poll under this section shall not be invalid by reason of any defect or any informality unless that defect or informality has affected the decision given on the question submitted at the poll.

Expiration of
this Act.

51. This Act shall expire upon the day (if any) fixed for the expiration of this Act under paragraph (c) of subsection (7) of section 50 of this Act and upon that day shall, for all purposes be deemed to have been repealed by an Act.

SCHEDULES

THE FIRST SCHEDULE

BALLOT PAPER

South Australia

Egg Industry Stabilization Act, 1973

Question—Do you desire that the Egg Industry Stabilization Act, 1973, shall come into operation?

Yes ☐

No ☐

The voter shall indicate his vote as follows:—

If he desires that the Egg Industry Stabilization Act, 1973, shall come into operation he should place the number 1 in the square opposite the word "Yes" and the number 2 in the square opposite the word "No".

If he does not desire that the Egg Industry Stabilization Act, 1973, shall come into operation he should place the number 1 in the square opposite the word "No" and the number 2 in the square opposite the word "Yes".

¹ By s. 6f of the Electoral Act, 1929-1973, it was provided, *inter alia*, that where in any other Act a reference is made to the Returning Officer for the State that reference shall on and after the commencement of the Electoral Act Amendment Act (No. 2), 1973, be read as a reference to the Electoral Commissioner.

THE SECOND SCHEDULE

Area 1

Section 25.

County of Daly, Stanley, Gawler, Light, Fergusson, Adelaide, Sturt, Hindmarsh, Carnarvon, Russell.

Area 2

County of Burra, Young, Hamley, Eyre, Albert, Alfred, Buccleuch, Chandos.

Area 3

County of Cardwell, Buckingham, Macdonnell, Robe, Grey.

Area 4

County of Victoria, Kimberley, Frome, Dalhousie, Herbert, Newcastle, Granville, Lytton, Blachford, Hanson, Derby, Taunton.

Area 5

County of Hopetoun, Kintore, Way, Dufferin, Bosanquet, Hore-Ruthven, Manchester, Robinson, Le Hunte, Buxton, Yorke, Musgrave, Jervois, Flinders.
