

No. , 1925.

A BILL

To make better provision for the marketing of
Dried Fruits, and for other purposes.

[CAPTAIN DUNN ;— *September, 1925.*]

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority
5 of the same, as follows :—

1. This Act may be cited as the "Dried Fruits Act, Short title.
1925."

2. This Act shall come into operation on a day to be Commence-
appointed by the Governor and notified in the Gazette. ment.

Interpreta-
tion.

3. In this Act, unless inconsistent with the context or subject-matter,—

“Board” means the Dried Fruits Board constituted by this Act.

“Dealer” means any person not being a grower 5 within the meaning of this Act who sells in any one year, whether on his own behalf or as agent for some other person, more than five tons of dried fruits, but does not include a shopkeeper who sells only such dried fruits as 10 he buys from registered dealers, or an auctioneer who sells such dried fruits as are entrusted to him to sell at auction.

“Dried fruits” means dried currants, dried sul-
tanans, dried lexias, and such other dried fruits 15 as the Governor may by proclamation declare to be dried fruits for the purposes of this Act.

“Export parity price” of any dried fruits means the selling price for the time being in London of the like Australian dried fruits, less cost of 20 freight, insurance, exchange, duties, and all other charges.

“Grower” means any person who, in any one year, produces more than ten hundred-weights of dried fruits of any one variety of the dried 25 fruits to which this Act applies.

“Package” includes every sack, bag, barrel, case, box, carton, or other container.

“Packing shed” means any building or erection in which dried fruits are stemmed, processed, 30 graded, sorted, or packed for the purposes of sale in packages exceeding fifty-six pounds in weight, whether such building or erection is or is not used for any other purpose.

“Prescribed” means prescribed by this Act or 35 by regulations made thereunder.

“Public notice” means notice published in the Gazette and in at least two daily newspapers published in Sydney.

Dried Fruits Board.

4. (1) There shall be a board to be called the New ^{The board.} South Wales Dried Fruits Board which shall consist of—

- 5 (a) two members appointed from time to time by the Governor, one of whom shall be appointed chairman, and
- (b) three members elected by growers in the manner hereinafter provided.

10 (2) The appointed members of the board shall hold office until their appointment is cancelled by the Governor.

(3) The elected members of the first board shall hold office until the day of one thousand nine hundred and , and 15 thereafter elected members shall hold office for a period of years. An elected member shall, subject to the provisions of subsection three of section seven of this Act, be eligible for re-election.

20 (4) The Governor may on the recommendation of the board remove any member from office.

(5) If the office of an elected member becomes vacant during the term for which he is elected, a person shall be elected to fill the vacancy: Provided that, if the vacancy occur within twelve months of the end 25 of such term, the Governor may appoint a person to fill the vacancy. Any person so elected or appointed shall hold office during the remainder of such term and no longer, but shall, subject to the provisions of subsection three of section seven of this Act, be eligible for election 30 for an ensuing term.

(6) The Governor may appoint a deputy to act for any member, whether an appointed or an elected member, during his absence.

35 (7) A deputy shall have the same powers, rights, and duties as the member in whose place he is appointed.

(8) The board shall elect one of its members to be vice-chairman thereof.

5. (1) The seat of any member shall become vacant ^{Vacancies.} if he—

- 40 (a) resign his office by writing under his hand addressed to the Governor;

(b)

- (b) without the permission of the board fails to attend three consecutive meetings of the board ;
- (c) becomes bankrupt or assigns his estate for the benefit of his creditors ; 5
- (d) is convicted of a felony or misdemeanour ; or
- (e) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898.

(2) No act or proceeding of the board shall be 10
invalid or be prejudiced by reason only of the fact that
at the time when such act or proceeding is done, taken,
or commenced there is a vacancy in the office of any
member.

Meetings.

6. (1) The chairman, or in his absence the vice- 15
chairman, shall preside at all meetings of the board
and shall have a casting vote as well as a deliberate
vote.

(2) Any three members of the board, of whom
the chairman or vice-chairman for the time being shall 20
be one, shall be a quorum thereof, and shall have and
may exercise all the powers and authorities which by
this Act are conferred on the board.

(3) All questions arising at any meeting of the
board shall be decided by the majority of the votes of 25
the members present.

(4) The board shall keep full and accurate
minutes of all its proceedings in such manner and
form as may be prescribed.

Elections.

7. (1) The Minister shall cause a roll of growers to 30
be compiled in the prescribed manner.

(2) Any person shall be eligible for enrolment if
he is a grower.

(3) No person shall be qualified to vote or to
become a candidate for election as a member of the 35
board unless his name appears on the roll.

(4) For the purposes of any election the Minister
may appoint a returning officer.

(5) The elections shall be carried out and the
results thereof certified in the prescribed manner. 40

8. A secretary, inspectors, and such other officers as may be necessary for the purposes of this Act may be appointed under the provisions of the Public Service Act, 1902.

5 Powers of the board.

9. (1) The board may from time to time for the purpose of defraying the expenses of administering this Act and of carrying out its duties and functions thereunder impose a levy on all growers in New South Wales.

10 (2) Such levy shall not exceed the rate of one-sixteenth of a penny per pound on the quantity of dried fruits produced by each grower in the year in respect of which the levy is made.

(3) Such levy shall be made in manner prescribed.

15 (4) If the amount of any levy remains unpaid for one month after the same is due (the grower liable to pay the same having received notice as prescribed of the amount thereof) the same may be recovered by the board in any court of competent jurisdiction.

20 10. (1) The board shall have power, in its absolute discretion, from time to time to determine where and in what respective quantities the dried fruits produced in any particular year shall be marketed, and to take whatever action the board thinks proper for the purpose of enforcing such determination.

25 (2) Notice of every such determination shall be given—

(a) by public notice in the Gazette and in such other newspapers as may be prescribed; and

30 (b) by sending by post to each grower or dealer affected or likely to be affected by the determination, at his address as registered with the board, a letter containing particulars of the determination.

35 11. The board shall have power in its absolute discretion from time to time—

(a) to make contracts with any person in respect to the purchase or sale of dried fruits produced in Australia;

(b)

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- (b) to enter into contracts with boards appointed under legislation in force in other States with objects similar to those of this Act for concerted action in the marketing of dried fruits produced in Australia and for purposes incidental thereto, 5 and to carry out such contracts;
- (c) to open shops or depots for the sale of dried fruits, either wholesale or retail;
- (d) to provide depots for the storage or distribution of dried fruits; 10
- (e) to fix the remuneration to be paid to dealers for the sale or distribution of dried fruits;
- (f) to fix the maximum prices to be charged on the sale of dried fruits, whether wholesale or by retail; and 15
- (g) by means of advertising or any other appropriate means, to encourage the consumption of dried fruits, and create a greater demand therefor.

Registration of existing growers.

12. (1) Every person who in the year one thousand nine hundred and twenty-five produced more than ten hundred-weights of dried fruits and who at the commencement of this Act is still engaged in the business of producing dried fruits shall, within one month from such commencement, register with the board in the 25 manner prescribed.

(2) Every such person shall, so long as he continues in the business of producing dried fruits, furnish to the board, at such times as the board by public notice requires, such particulars as are prescribed with 30 respect to the dried fruits produced or likely to be produced by him during any particular year.

Registration of new growers.

13. Every person who, after the commencement of this Act, commences to produce dried fruits shall, within one month of his so commencing, register with the 35 board in the prescribed manner.

Registration of existing dealers.

14. (1) Every person who in the year one thousand nine hundred and twenty-five sold, whether on his own behalf or as agent for some other person, more than five tons of dried fruits not produced by him from fruit 40 grown by him, and who at the commencement of this Act

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Act is still engaged as a dealer in dried fruits shall, within one month from such commencement, register with the board in the prescribed manner.

(2) Every such person shall, so long as he continues to be a dealer in dried fruits, furnish to the board, at such times as the board by public notice requires, such particulars as are prescribed with respect to the dried fruits sold or likely to be sold by him, whether on his own behalf or as agent for some other person, in any particular year.

15. Every person who, after the commencement of this Act, commences to deal in dried fruits shall, within one month of his so commencing, register with the board in the prescribed manner.

Registration
of new
dealers.

16. (1) Every packing shed shall be registered with the board by the occupier thereof.

Registration
of packing
sheds.

(2) Application for registration shall be made in such form and shall be accompanied by such particulars as are prescribed.

(3) The registration of a packing shed shall expire on the thirty-first day of December in the year when it was effected, but may be renewed in the prescribed manner.

(4) The registration of a packing shed may at any time during its currency be transferred in favour of any other person approved by the board.

(5) Every application for registration or for the renewal or transfer of registration shall be accompanied by the following fee—

(i) For registration or for renewal of registration, one pound;

(ii) for transfer of registration, five shillings.

(6) Every occupier of a packing shed required by this section to be registered who does not register the same pursuant to this Act shall be liable to a penalty not exceeding *two* pounds for every day whilst such shed remains unregistered.

17. The board may, in its discretion, cancel the registration of any packing shed if a person registered in respect thereof is, in the opinion of the board, deliberately

Cancellation
of registration
of packing
sheds.

deliberately

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deliberately contravening any determination of the board with respect to any dried fruits in such packing shed.

Unregistered packing sheds prohibited.

18. Any person, being the owner or occupier or person in charge of any packing shed not registered as required by this Act, who carries on in such packing shed the business of packing dried fruit in packages exceeding fifty-six pounds in weight or of stemming, processing, grading, sorting, buying, or selling dried fruits shall be liable to a penalty of not more than *one hundred* pounds.

Purchase or acquisition of dried fruits.

Minister may purchase or compulsorily acquire dried fruits.

19. (1) Subject to section ninety-two of the Commonwealth of Australia Constitution Act and for the purposes of this Act or of any contract made by the board, the Minister may on behalf of His Majesty purchase by agreement or acquire compulsorily any dried fruits in New South Wales grown and dried in Australia, not being dried fruits which are held for export under and in accordance with a valid and existing license granted under the Dried Fruits Export Control Act, 1924, of the Parliament of the Commonwealth, or of which the board constituted under that Act has accepted the control for the purposes of that Act or which are included in any contract referred to in section eighteen of that Act : Provided that the Minister under the powers conferred by this Act shall not acquire compulsorily any such dried fruits in any case where the owner or the person having the control thereof has exported or arranged to export such quantity as he is licensed to export under and in accordance with such a license as aforesaid, and such further quantity (if any) as is determined by the Minister and for the export of which a license can be obtained under the said Commonwealth Act.

(2) The Minister may authorise the board to acquire on his behalf any dried fruits which this Act empowers him to acquire.

(3) Any dried fruits acquired pursuant to this Act may be sold by the Minister in such manner as he thinks fit.

(4)

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(4) The Minister, or the board acting on his behalf, may, for the purpose of obtaining money to carry out any acquisition authorised by this section, enter into any agreement with any person or with any bank carrying on business in New South Wales.

20. The following provisions shall have effect with respect to the compulsory acquisition of dried fruits under and for the purposes of this Act:—

Provisions as to compulsory acquisition of dried fruits.

10 (1) The Minister by order in writing under his hand, or the board, when authorised by him under section nineteen of this Act, by order in writing under the hand of the chairman or vice-chairman of the board, such order being served upon any person being the owner of or
15 having the control or disposal of any dried fruits described or referred to in the order, may declare that such dried fruits are acquired by His Majesty; and in any such order it shall
20 be sufficient to describe the dried fruits so acquired as dried fruits in a certain locality or place or in any other manner by which the dried fruits may be identified.

25 (2) Upon the service of any such order all dried fruits described or referred to in such order shall cease to be the property of the then owner or owners thereof, and shall become and remain the absolute property of His Majesty, freed from any mortgage, charge, lien, or other encumbrance thereon whatsoever;
30 and the then owner or owners and all agents, managers, attorneys, servants, and workmen of such owner or owners shall, without delay, hindrance, obstruction, claim, demand, or objection whatsoever, give immediate and
35 peaceable possession of such dried fruits to His Majesty and all the title and property of the then owner or owners thereof shall be changed into a right to receive payment of the value thereof at the export parity price thereof, to be paid at such times and intervals
40 as the board may by notice published in the

Effect of order.

Gazette

Gazette declare: Provided that in any case where at the time of acquisition any person holds any mortgage, charge, lien, or other encumbrance over any such dried fruits, such person shall be entitled to receive payment, 5 out of the sum which would otherwise be payable to the owner or owners, of the principal moneys and interest (if any) for the time being secured thereby in preference to the owner or owners, and only the balance (if any) of the 10 value of such dried fruits shall be paid to the owner or owners.

Authority for delivery of possession.

(3) The production of any such order or of a copy thereof, or of a telegram purporting to be a demand pursuant to such order and to be 15 signed by the chairman or vice-chairman of the board, shall be sufficient authority for the delivery of possession of any dried fruits described or referred to, or claimed to be described or referred to, in such order or 20 demand.

Seizure and taking possession of dried fruits.

(4) All dried fruits described or referred to, or claimed to be described or referred to, in any such order or demand may, without any warrant other than this Act, be seized and taken 25 possession of by any officer authorised, either generally or in any particular case, in writing by the chairman or vice-chairman of the board in that behalf; and such officer, with any necessary assistance, may, for any of the 30 purposes of this section, enter any place at any time and use any force which may be necessary.

Penalty for refusal to deliver and for obstruction, &c.

(5) Any person who refuses to deliver, or delays or obstructs or hinders the delivery of, any dried 35 fruits described or referred to, or claimed to be described or referred to, in any such order or demand shall be liable to a penalty of not more than *one hundred* pounds; and if such person is a company the individual person 40 guilty of the offence, and also the managing director

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director or other manager in New South Wales of the company, shall each be liable to the like penalty.

5 (6) In the event of any doubt or dispute as to the person legally entitled to receive any moneys payable under this section, the board may pay the same into the Supreme Court in its equitable jurisdiction, to abide the order of that court. Disputes as to amounts payable.

10 (7) The receipt given by any person to the board for any moneys paid for any dried fruits acquired under this section shall be a sufficient discharge to the board in respect of the liability to make payment therefor; but nothing herein shall prejudice or affect the right of any person claiming to be entitled to receive any such moneys to recover the same from any person to whom the board has paid the same. Effect of receipts.

15 **21.** (1) Subject to the provisions of this section any agreement in writing made before the day of one thousand nine hundred and twenty-five, Existing contracts for the sale of dried fruits. between a grower and a dealer, for the sale of any dried fruits to be produced in the year one thousand nine hundred and twenty-six, is hereby declared to be null and void: Provided that where a dealer has by any such agreement agreed to sell to any person any dried fruits already agreed to be purchased by him from growers, the agreement made with such person shall continue valid and subsisting, and the agreement made 30 by such dealer with the grower shall be deemed to refer only to such quantity of dried fruits as is respectively notified in writing by the board to the grower concerned, and so far as regards such quantity such agreement shall continue valid and subsisting, but so far as regards 35 the difference between such quantity and the quantity to which it actually refers shall be null and void.

(2) Every agreement which by the proviso to subsection one hereof is declared to be valid and subsisting shall be registered by the purchaser thereunder 40 with the board before the day of one thousand nine hundred and twenty-five, and the said board may, before registering any such agreement, require

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require to be furnished with such evidence, in the form of a statutory declaration or otherwise, of its authenticity as he thinks proper. If any such agreement is not registered as required by this subsection, it shall not have any effect after the _____ day of _____ one thousand nine hundred and twenty-five. 5

(3) The board shall, for the purposes of the proviso to subsection one hereof, notify to growers whose contracts are by that proviso declared to continue valid and subsisting as to part thereof, what quantity of dried 10 fruits each grower is bound to deliver thereunder, and the board's notification shall in all courts be accepted as conclusive evidence of that quantity.

(4) Any purchaser who has, prior to the said day of _____, one thousand nine hundred 15 and twenty-five, advanced to any grower any sum or sums of money under any agreement which is by this section declared to be null and void shall have a preferable lien for the total sum advanced by him, together with interest at the rate stipulated in the agreement or 20 if no rate is stipulated at the rate of eight pounds per centum per annum over the fruit crop of the next ensuing harvest of such grower.

(5) When a purchaser is by the provisions of the last preceding subsection entitled to a preferable lien, 25 the agreement may, notwithstanding that it is not in the form prescribed by the Second Schedule of the Liens on Crops and Wool and Stock Mortgages Act of 1898, and does not comply in other respects with section four of that Act, be registered under that Act within thirty 30 days of the said _____ day of _____, one thousand nine hundred and twenty-five, if this Act is then in operation, and if not then within thirty days after the commencement of this Act.

(6) The Liens on Crops and Wool and Stock 35 Mortgages Act of 1898, shall subject as aforesaid, and the provisions of section nine thereof as to the duration of the lien excepted, apply mutatis mutandis in respect of the agreement so registered and as if the said crop were a growing crop. 40

(7)

(7) The board may apply any moneys in its hands due to the grower in or towards the satisfaction of the lien.

Miscellaneous.

5 **22.** (1) Every person who packs any dried fruits shall, in manner prescribed, legibly and durably brand, stamp, or mark upon, or cause to be branded, stamped, or marked upon, every package containing any of such dried fruits—

Packages containing dried fruits to be branded.

10 (a) the name of the packer of such dried fruits or the registered brand or registered mark of such packer; and

15 (b) while any regulation made under this Act prescribing standards of quality for different grades of dried fruits, and the grade description or grade mark to be used with respect to each standard is in force a mark, consisting of one or more words, letters, or figures, or a combination of these, for the purpose of indicating
20 the quality of the dried fruits contained in such package.

(2) Every person who fails to observe any of the provisions of this section shall be liable to a penalty not exceeding *fifty* pounds.

25 **23.** (1) The Minister may by notice published in the Gazette, and in a newspaper circulating in the locality, require all or any persons having within a locality therein mentioned any dried fruits in excess of a quantity specified in the notice, owned by them or in
30 their disposal or under their control for the purposes of trade or sale, to make returns of such dried fruits.

Returns of dried fruits.

(2) Such returns shall be in the form and shall contain the particulars and shall be made within the time and to the persons prescribed.

35 (3) If any person to whom such a notice applies fails, neglects, or refuses to make such a return, he shall be liable to a penalty of not more than *one hundred* pounds.

Indemnity of Minister.

24. No action, claim, or demand whatsoever, shall lie or be made or allowed by or in favour of any person whomsoever against His Majesty or the Minister or any board constituted under this Act or any member thereof or any officer or person acting in the execution of this Act for or in respect of any damage, loss, or injury sustained or alleged to be sustained by reason of anything done under this Act save only for the price pursuant to this Act payable for any dried fruits purchased or acquired under this Act.

Concerted action between Commonwealth and States.

25. The Premier of New South Wales may—

(a) join either with—

(i) the Prime Minister of the Commonwealth and the Premiers of the States thereof or any of them; or

(ii) The Premiers of such States or any of them—

in any arrangements for concerted action in the marketing of Australian dried fruits; and

(b) on behalf of the Government of New South Wales agree to any such arrangement and do any acts, matters, or things necessary or expedient to carry the same into effect.

Board to keep accounts.

26. (1) The board shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums of money received and paid for on account of this Act or pursuant thereto and of the several purposes for which sums of money have been received and paid.

(2) The accounts of all moneys received and paid as aforesaid shall be audited by the Auditor-General who shall have with respect to such accounts all the powers conferred on him by the Audit Act, 1902.

(3) The board shall furnish to the Governor a true copy of the accounts so audited as aforesaid together with a particular statement of the moneys received by the board and of the expenditure thereof.

(4) Copies of such accounts and of such statement shall be laid before both Houses of Parliament if then sitting, or if not, then within fourteen sitting days after the commencement of the next session.

Offences

Offences and penalties.

27. Every grower who sells or otherwise disposes of any dried fruits contrary to any determination of the board applying to such fruits and notified to him in manner prescribed shall be liable to a penalty not exceeding five hundred pounds.

Offences and penalties.

28. (1) While any regulation made under this Act prescribing standards of quality for different grades of dried fruits and the grade description or grade mark to be used with respect to each standard is in force, every person shall be liable to a penalty of not more than one hundred pounds who—

Penalty for possession of dried fruits under standard or misrepresenting standard of dried fruits.

(a) packs any dried fruits in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark prescribed to be used for dried fruits of the quality packed in the particular package;

(b) has in his possession any dried fruits contained in any package branded or marked with a grade description or grade mark which is not the grade description or grade mark prescribed to be used for dried fruits of the quality contained in the particular package; or

(c) by the use of any description or mark on a package containing dried fruits represents such fruits to be of a particular standard, whereas in fact such fruits are not of that standard.

(2) Where it is made to appear to the satisfaction of any inspector or officer appointed under this Act, or any member of the police force, at the time of discovering an offence—

(a) that the person primarily liable has used all due diligence to avoid a breach of this section; and

(b) by what person the offence has been committed; and

(c) that it has been committed without the knowledge, consent, or connivance of the person primarily liable, the

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the said inspector, officer, or member of the police force shall proceed against the person whom he believes to be the actual offender without first proceeding against the person primarily liable.

Penalties. **29.** (1) Any person contravening any of the provisions of this Act shall, when no other penalty is expressly provided, be liable on conviction to a penalty not exceeding *one hundred* pounds. 5

(2) Penalties imposed by this Act or by any regulation made thereunder may be recovered in a summary manner before a stipendiary or police magistrate or any two justices in petty sessions. 10

Regulations.

Regulations. **30.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which 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 in particular and without limiting the generality of the foregoing power, the Governor may make regulations for or with respect to— 15 20

- (a) the purchase, acquisition, sale, or marketing or the arranging for the purchase, acquisition, sale, or marketing of dried fruits;
- (b) the inspection of, and the granting of certificates as to the quality of, dried fruits intended for sale; 25
- (c) the branding, marketing, or labelling of packages containing dried fruits;
- (d) the registration of growers, dealers, and packing sheds, and the particulars to be furnished to the board by the applicants for registration; 30
- (e) fixing standard of quality for different grades of dried fruits and the grade description or grade mark to be respectively used for packages containing dried fruits intended for sale within the State of New South Wales. 35

(2) Such regulations may prescribe penalties not exceeding *one hundred* pounds for any breach thereof. 40

(3)

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- (3) Such regulations shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date specified in the regulations; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.
 - 5
 - 10 (4) If either House of Parliament passes a resolution, of which notice has been given, at any time within fifteen sitting days after such regulations have been laid before such House, disallowing any regulations
 - 15 or part thereof, such regulation or part shall thereupon cease to have effect.
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