



ANNO DECIMO TERTIO

GEORGI VI REGIS.

A.D. 1949.

No. 32 of 1949.

An Act relating to the marketing of honey.

[Assented to 17th November, 1949.]

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

Short title.

1. This Act may be cited as the "Honey Marketing Act, 1949".

**Commencement
and poll.**

2. (1) The provisions of this Act (other than sections 1, 2, and 3) shall not come into operation unless a proclamation is made by the Governor declaring that this Act shall commence on a day specified in the proclamation.

(2) No such proclamation shall be made unless a poll of producers has been first held on the question whether this Act shall be brought into operation and a majority of the votes validly cast at the poll are in the affirmative.

(3) The Returning Officer for the State shall take a poll such as mentioned in subsection (2) of this section as soon as is convenient after this Act is assented to.

(4) At the poll every producer whose name appears on the list of producers prepared under this section shall be entitled to one vote.

(5) The Minister shall, as soon as is convenient after this Act is assented to, prepare and supply to the Chief Electoral Officer a list containing the names of all persons who are producers at the time of the preparation of the list. The Minister may amend or add to the list at any time before the ballot papers are posted.

- (6) The poll shall be conducted by postal voting.
- (7) The ballot paper shall be in the form set out in the schedule to this Act.
- (8) A producer 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 ”;
- (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 ”:

Provided that a ballot paper shall not be informal solely because the voter has indicated his vote by placing in one square the number 1 or a cross, and by leaving the other square blank, and if he so votes by a cross that cross shall be deemed to be equivalent to the figure 1.

(9) Subject to this Act, the poll shall be conducted in such manner as the Returning Officer for the State determines.

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

3. (1) In this Act, unless the context otherwise requires or **Interpretation.** some other meaning is clearly intended—

“ the board ” means The South Australian Honey Board constituted under this Act :

“ honey ” means the ripened nectar and saccharine exudations of plants gathered, modified, and stored by the Honey Bee, and shall include beeswax :

“ member ” includes chairman :

“ Minister ” means Minister of the Crown for the time being holding the office of Minister of Agriculture, or any Minister of the Crown for the time being discharging the duties of that office :

“ producer ” means person who keeps ten or more colonies of bees :

“ registered agent ” means any person for the time being registered as an agent of the board under this Act :

“ sell ” includes barter ; and “ sale ” has a corresponding meaning.

(2) This Act shall be construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act would but for this section be in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

The South Australian Honey Board.

Constitution of board.

4. (1) For the purposes of this Act there shall be a board to be known as The South Australian Honey Board.

(2) The board shall consist of seven members appointed by the Governor.

(3) Four members of the board shall be producers selected by the Minister from nominees of The South Australian Apiarists' Association, and three shall be selected by the Minister from nominees of The South Australian Honey Packers' Association.

A person who is a registered agent or an employee of a registered agent shall not be eligible to be nominated for membership by The South Australian Apiarists' Association.

(4) Whenever it is necessary to appoint any members the Minister shall request each association which has the right to nominate members to nominate twice as many persons as the number of members to be selected from nominees of that association and to submit to him a panel containing the names of the persons nominated.

The Minister shall select the members from the persons whose names are included in the panel.

(5) If an Association fails to submit a panel of names of nominees to the Minister within one month after receiving a request to do so, the Minister may nominate the members to be appointed.

(6) One of the members selected from the nominees of The South Australian Apiarists' Association shall be appointed by the Governor as chairman.

Incorporation of board.

5. The board shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of suing and being sued and of making contracts and of acquiring, holding, and disposing of property of all kinds.

Board not to represent Crown.

6. The board shall not, except in relation to any matter in which the board is specially authorized by the Governor to act on behalf of the Crown, be the agent or servant or the representative of the Crown.

7. (1) Subject to the other provisions of this Act, each member of the board shall hold office for four years calculated as from the first day of July in the year in which he was appointed.

Term of office.

(2) If the term of office of a member expires before his successor is appointed he shall remain in office until his successor is appointed.

(3) Two of the first members nominated by the South Australian Apiarists' Association and one of the first members nominated by the South Australian Honey Packers' Association shall retire on the thirtieth day of June in the second year after the year in which they were first appointed.

The two members nominated by the South Australian Apiarists' Association who shall so retire shall be determined by agreement between all the members nominated by that Association; and the member nominated by the South Australian Honey Packers' Association who shall so retire shall be determined by agreement between all the members nominated by that Association. If any members required to retire under this section are not so determined by agreement on or before the fifteenth day before the day on which they are required to retire, they shall be selected by drawing lots.

(4) A member appointed to fill a casual vacancy on the board shall hold office for the unexpired portion of the term of the member in whose place he was appointed.

8. (1) The office of a member shall become vacant if he—

Casual
vacancies.

(a) dies ;

(b) resigns by written notice given to the Minister ;

(c) is removed from his office by the Governor;

(d) absents himself, without permission of the board, from more than four consecutive meetings of the board, and is declared by resolution of the board to have forfeited his seat.

(2) The Governor may remove a member from office if the member has been guilty of any conduct which, in the Governor's opinion, shows him to be unfit to hold his office, or if he is unable by reason of mental or physical incapacity to perform properly the duties of his office.

Proceedings of board not invalidated by vacancies and defects.

9. (1) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of members of the board not being complete at the time of such act or proceeding.

(2) All acts and proceedings of the board shall, notwithstanding the subsequent discovery of any defect in the appointment or qualification of any member thereof, be as valid as if such member had been properly appointed and qualified.

Chairman.

10. (1) The chairman shall preside at every meeting of the board at which he is present. If the chairman is absent from a meeting the other members of the board present shall select one of their number to act as chairman at that meeting.

(2) The chairman, or the person acting as chairman, shall have a deliberative vote and in the event of equality of votes a casting vote also.

Quorum.

11. (1) Any four members of the board including at least two members who are producers shall form a quorum thereof for the transaction of business, and no business shall be transacted at a meeting unless a quorum is present.

(2) Every matter coming before the board shall be decided by a majority of the votes of the members present and voting at a duly convened meeting of the board.

Meetings of the board.

12. (1) The first meeting of the board shall be convened by the chairman, and thereafter meetings shall be held at the times and places determined by the board: Provided that the chairman may, on reasonable notice to members of the board, call a meeting at any time.

(2) Subject to this Act, the business of the board shall be conducted in such manner as the board determines.

Remuneration of the board.

13. (1) The members of the board shall be entitled to be paid such remuneration and expenses as are approved by the Governor.

(2) Such remuneration and expenses shall be paid out of the funds of the board.

Staff of board.

14. (1) The board may appoint a secretary and such inspectors, clerks, and other officers and employees as it requires to assist it in the administration of this Act.

(2) With the consent of the Minister administering any department of the Public Service of the State, the board may on any terms agreed upon between itself and the Minister, make use of the services of any person employed in that department.

15. (1) The board shall keep proper accounts of all its financial transactions and shall prepare a balance-sheet and a statement of its income and expenditure at least once a year.

Accounts
and
audit.

(2) The board shall at all times keep a copy of its last balance-sheet and statement of income and expenditure affixed in a conspicuous place in that part of its office which is open to the public.

(3) The board shall cause its accounts to be properly audited at least once a year by an auditor holding an auditor's licence under the Companies Act, 1934-1939.

16. The board may become a member of or nominate or appoint members to or otherwise co-operate with any limited company or other organization formed (whether within or outside the State) for the protection or advancement of the interests of persons engaged in the production, packing, or sale of honey, or for stabilizing the price of honey or pooling the proceeds of the sale of honey.

Board may
co-operate.

17. The board may do all or any of the following things :—

General
powers of
board.

- (a) purchase or otherwise acquire, sell or otherwise dispose of, prepare for sale, process or otherwise treat, store and handle honey or other apiary products ;
- (b) borrow money to enable it to exercise any of the powers or functions conferred on it by this Act and give security over any of its assets for repayment of money so borrowed ;
- (c) act as agent for the Commonwealth or any State in connection with the purchase and sale of honey or other apiary products ;
- (d) do any other acts or things and enter into and carry out any contracts and transactions (including the purchase and sale of any property) which are necessary or convenient to be done, entered into or carried out for giving effect to this Act or which are incidental to the exercise of any power or function of the board ;
- (e) delegate any of its functions and revoke any such delegation.

18. The board shall not establish or maintain any honey floor : Provided that if the Minister is satisfied that a honey floor is necessary in any locality and that no other suitable person is willing to establish such a floor and grade honey

Honey floors.

thereat at a cost which the Minister considers reasonable, the Minister may authorize the board to establish and maintain a honey floor in that locality, and the board may establish and maintain a honey floor accordingly.

Review of
decisions of
board.

19. (1) A person dissatisfied with a decision or action or proposed decision or action of the board, may in writing request the Minister to review that decision, or action, or proposed decision or action.

(2) The Minister—

(a) shall give the person making the request, and the board, an opportunity to submit to him any information or arguments relevant to the matter to which the request relates ; and

(b) may give the board a direction relating to that matter.

(3) Any such direction shall be binding on the board.

Registered Agents.

Registered
agents.

20. (1) For the purposes of this Act the board may register suitable persons as its agents.

(2) Any person desiring registration as an agent of the board shall apply in writing to the board for such registration, and give the board such information relevant to his application as the board requires.

(3) Any person who holds a licence to export honey or apiary products under the laws of the Commonwealth shall be entitled upon application duly made to be registered as an agent of the board and to remain so registered as long as he holds such a licence and complies with this Act and the regulations.

(4) The board shall have a discretion to grant or refuse registration to any applicant therefor other than an applicant holding a licence to export honey under the laws of the Commonwealth, but shall not capriciously refuse any application.

(5) The registration of an agent shall remain in force until it is cancelled, or the agent surrenders it, or dies.

(6) The board may cancel the registration of any agent if he ceases to hold a licence to export honey under the laws of the Commonwealth, or if he has failed in any way to comply with this Act or the regulations or to carry out any of his duties as an agent, or if he becomes bankrupt, or in any way, as a debtor, takes the benefit of the laws relating to bankruptcy.

(7) Every registered agent shall be entitled to take delivery of honey from producers on behalf of the board and shall perform such other duties and functions on behalf of the board as the board directs.

Control and Marketing of Honey.

21. (1) The board may by notice published in the *Gazette* and in a daily newspaper fix a day (in this section called "the appointed day") on and after which every producer must comply with the requirements of this Act as to the sale and delivery of honey.

Duty to sell and deliver honey.

(2) On or after the appointed day a producer shall not sell or deliver any honey to any person other than a registered agent, and a person other than a registered agent shall not purchase or take delivery of any honey from a producer: Provided that the foregoing provision of this subsection shall not apply to—

- (a) any honey sold or delivered as allowed under section 22 of this Act;
- (b) any honey sold or delivered in the course of trade or commerce between the States.

(3) The board through its registered agents shall accept delivery of all honey tendered to it pursuant to this Act if such honey is of merchantable quality and complies with any requirements prescribed by regulation.

22. All honey delivered to the board by producers and accepted by the board shall thereupon be vested in and become the absolute property of the board, freed and discharged from all mortgages, charges, liens, pledges, interests, trusts, contracts, and encumbrances affecting the honey; and the rights and interests of every person to or in the honey shall thereupon be converted into a claim for payment therefor in accordance with the provisions of this Act.

Effect of delivery of honey.

23. (1) The board may by notice published in the *Gazette*, or by written notice given to the producers thereby affected, exempt from the operation of the last two preceding sections:—

Exemptions.

- (a) any persons who in the board's opinion will not produce more than 600 lb. of honey per annum during the period for which the exemption is granted;
- (b) any specified sales or deliveries of honey or all sales and deliveries complying with any specified conditions.

(2) An exemption granted by notice under subsection (1) of this section—

- (a) shall be in operation for the term specified in the notice ;
- (b) may contain such conditions (to be specified in the notice) as the board thinks fit, including a condition requiring the exempted person to make contributions to the funds of the board ;
- (c) may be cancelled by the board upon breach of any such condition.

(3) This Act shall not apply in relation to any honey if the proceeds of the sale thereof are expended or applied for any of the following purposes :—

- (a) for the benefit of any hospital, or institution in which sick, aged, or infirm persons are maintained, or any other charitable institution ;
- (b) for the benefit of any school or institute ;
- (c) for paying the cost of building or purchasing any church or any hall available or intended to be available for general public use, or for repaying any loan raised to pay such cost ;
- (d) for beautifying or improving any streets, roads, public parks, public playgrounds, public reserves, or other like public places ;
- (e) for any charitable purpose ; or
- (f) any other patriotic, religious, educational, or scientific purpose.

(4) This Act shall not apply to honey sold as honey for feeding bees or to honey given by the producer thereof to an occupier or owner of land who has permitted that producer to keep colonies of bees upon that land.

Mode of
delivery.

24. (1) Delivery of honey to the board shall be effected by delivering the honey to a registered agent.

(2) The tendering of honey by a producer or person on his behalf, to a registered agent for acceptance shall be prima facie evidence of an intention to deliver the honey to be disposed of in accordance with this Act.

Issue of
certificate to
person other
than producer.

25. A producer may prior to or at the time of delivering honey to a registered agent give notice to the agent that the honey is delivered on behalf of some other person and that the certificate for the honey is to be issued to that person.

26. (1) As soon as practicable after the receipt of any honey the registered agent shall issue to the person entitled thereto a certificate in the prescribed form certifying the quantity and grade of that honey and its appraisement value and that payment therefor is to be made to such person or his assignee.

Certificate to produce upon delivery.

(2) The person entitled to a certificate under this section shall be :—

- (a) the producer by whom the honey was delivered ; or
- (b) if the producer has notified the board that the certificate is to be issued to any other person, that other person.

(3) A person to whom a certificate has been issued, or to whom the rights under a certificate have been assigned, may assign his rights under the certificate by indorsement thereon specifying the name of the assignee.

27. (1) Every registered agent shall grade all honey delivered to him. The grades of honey and the characteristics of the honey of each grade shall be as prescribed by regulation.

Grading and prices.

(2) If a producer is dissatisfied with the decision of a registered agent as to the grade or appraisement value of honey he has delivered to the registered agent, the board may, on application in writing by the producer vary the decision of the registered agent, but no such application will be considered by the board unless it is received by the board before the expiration of one month from the date of the issue of the agent's certificate.

28. Upon acceptance of any honey the board shall pay to the person holding the certificate issued for the honey, such amount on account of the price of the honey as the board thinks fit.

Payments to producers on account of price.

29. (1) The board shall determine what shall be the accounting periods for the purpose of determining and paying the amounts owing to producers and others for honey delivered to the board.

Settlements with producers.

(2) The board shall, at or after the end of each accounting period, make payments to all holders of certificates for honey delivered to the board during that period. The payments so made shall be based upon—

- (a) the quantity and the grades of the honey so delivered ;
- (b) the net proceeds of the sales of all honey of the corresponding grades sold by the board during the accounting period ;

(c) the amount of the payments made under section 27 of this Act to the holders of the certificates ;

(d) any other circumstances affecting the amount of the payments.

(3) The board may in fixing the payments to be made under this section take into account or deduct from the proceeds of the sale of honey, and retain, a sum equal to—

(a) the amount spent by the board in and about the transport, storage, grading, blending, packing and marketing of the honey ;

(b) a contribution or levy towards the cost of the administration of this Act or towards the creation of a fund for the administration of this Act ;

(c) a contribution or levy towards the cost of any expenses incurred by the board in advertising or towards the creation of a fund for advertising ;

(d) any money necessary to repay any advances made to the board and interest therein.

(4) For the purpose of this Act the decision of the board as to the grade of any honey delivered to the board shall be final and conclusive.

Non liability
of board for
payments in
good faith.

30. Where the board in good faith and without negligence has made any payment to the person appearing from any certificate to be entitled to such payment, the board shall not be liable to make any payment to any other person for the honey mentioned in the certificate.

Sale of honey
by board.

31. (1) The board shall sell all honey of which it becomes the owner under this Act.

(2) In selling such honey the board shall pay due regard to the reasonable trade requirements of registered agents of the board who in the course of their business sell honey by wholesale or retail.

Information
as to honey
production.

32. (1) The board, or any person acting under the authority of the board, may for the purposes of the administration or enforcement of this Act require any person to supply to the board or such authorized person any information in relation to the production or sale of honey.

(2) Any person who without reasonable excuse fails to supply any information so asked for within the time specified by the board or person requiring it, or who knowingly gives any false information, shall be guilty of an offence.

33. (1) For the purposes of this Act any member of the board or any person authorized by the board to act under this section may enter any premises and inspect any books, accounts, registers, or documents found in or upon such premises and relating to the packing of or any transactions in connection with honey and may take copies thereof.

Inspection of
accounts.

(2) Any person who obstructs any such person in the exercise of his powers under this section, or who, on being requested to do so, does not produce any such books, accounts, registers, or documents in his possession or under his control, shall be guilty of an offence.

Miscellaneous Provisions.

34. (1) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

Offences and
penalties.

(2) Any person guilty of any offence against this Act shall be liable to a fine not exceeding one hundred pounds.

(3) Proceedings for offences against this Act shall be heard and determined summarily.

35. Except where this Act otherwise provides, any notice required by this Act to be given to any person, may be served personally or by post.

Service of
notices.

36. The Governor may make regulations prescribing 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 in particular, but without limiting the generality of the foregoing powers :—

Regulations.

- (1) For requiring any persons to furnish the board with any information relating to honey ;
- (2) For enabling the board or any person authorized by it to inspect any records or accounts relating to honey or any premises on which honey is produced, stored, graded, blended, processed, packed or otherwise treated ;
- (3) For prescribing the duties, functions and conduct of registered agents ;

- (4) For prescribing penalties recoverable summarily and not exceeding in any case a fine of twenty pounds for breach of the regulations.

Duration of
Act.

37. This Act shall expire on the thirtieth day of June, nineteen hundred and fifty-four.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. W. M. NORRIE, Governor.

THE SCHEDULE.

BALLOT PAPER.

HONEY MARKETING ACT, 1949.

Question :—Do you desire that the Honey Marketing Act,
1949, shall come into operation ?

YES

NO

The voter shall indicate his vote as follows :—

If he desires that the Honey Marketing Act, 1949, 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 Honey Marketing Act, 1949, 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 ".