

DAIRY PRODUCE EXPORT CONTROL.

No. 38 of 1924.

An Act relating to the Export of Dairy Produce.

[Assented to 20th October, 1924.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Dairy Produce Export Control Act* 1924. Short title.

2. Sections one, two, five and thirty of this Act shall commence on the day on which this Act receives the Royal assent and the remaining sections of this Act shall commence on a date to be fixed by Proclamation: Commencement.

Provided that a Proclamation under this section shall not issue unless and until, at a poll of producers taken in the prescribed manner throughout the Commonwealth, a majority of votes have been given in favour of the Act being brought into operation.

3. In this Act, unless the contrary intention appears— Definitions.

“butter factory” and “cheese factory” respectively mean, in relation to any election under this Act, any factory which, during the year ended the thirtieth day of June last preceding the election, has manufactured not less than twenty-six tons of butter or cheese as the case may be;

“dairy produce” means butter and cheese;

“producers” means persons carrying on business as suppliers of milk or cream to factories manufacturing dairy produce;

“the Board” means the Dairy Produce Control Board constituted under this Act.

“the fund” means the Dairy Produce Export Fund established under this Act.

4.—(1.) For the purposes of this Act there shall be a Dairy Produce Control Board. Dairy
Produce
Control Board.

(2.) The Board shall consist of—

(a) one member (in this Act referred to as “the Government representative”) who shall be appointed by the Governor-General as the representative of the Commonwealth Government;

- (b) two representatives of each of the States of Queensland, New South Wales, and Victoria, and one representative of each of the States of Tasmania, South Australia and Western Australia elected by the boards of directors of co-operative butter and cheese factories in each of those States ;
- (c) two representatives elected by the boards of directors of proprietary butter and cheese factories ; and
- (d) one member appointed by the Governor-General as the representative of persons engaged as sellers of dairy produce out of the Commonwealth whether as agents or on their own account.

(3.) The Governor-General shall not appoint, as the Government representative, any person who has submitted himself for, and failed to secure, election as an elected member of the Board.

(4.) The member appointed as the Government representative shall hold office during the pleasure of the Governor-General.

(5.) The election of representatives in pursuance of paragraphs (b) and (c) of sub-section (2.) of this section shall be carried out in such manner as is prescribed.

(6.) The member appointed in pursuance of paragraph (d) of sub-section (2.) of this section shall be appointed for a term of two years, but may be removed from office by the Governor-General upon the recommendation of the Board.

(7.) Elected members of the Board shall hold office for a period of two years and shall be eligible for re-election :

Provided that an elected member may be removed from office by the Governor-General on the recommendation of the Board.

(8.) On the death, resignation or removal from office of an elected member of the Board, the Governor-General may, on the recommendation of the Board, appoint a person to hold the vacant office for the residue of the term of the elected member.

(9.) The powers conferred on the Board by this Act shall not be affected by reason only of there being a vacancy in the membership thereof.

Date of election of members of the Board.

5. Notwithstanding that a proclamation under section two of this Act has not issued, elections of members of the Board in pursuance of sub-section (2.) of the last preceding section may be held on the same day as that appointed for the taking of the poll referred to in section two of this Act.

Incorporation of Board.

6. The Board shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued and of holding real and personal property.

Deputies of members.

7.—(1.) In the event of the illness or absence of a member of the Board, the Governor-General may appoint a person to be the deputy of that member and a person so appointed shall have all the powers of the member of whom he is the deputy.

(2.) Where the member who is ill or absent is an elected member the person appointed to be the deputy of that member shall be a person named by the Board.

(3.) No such appointment of a deputy and no acts done by him as such shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

8. The members of the Board, and the deputies of members of the Board while acting as such, shall receive such fees and expenses as are prescribed. Fees and expenses.

9.—(1.) At the first meeting of the Board which shall be held at a time and place notified in the *Gazette* by the Minister, the Board shall appoint one of its members to be the Chairman of the Board. Chairman of the Board.

(2.) The Chairman of the Board shall hold office until the appointment in accordance with this section of a successor, and shall be eligible for re-appointment.

(3.) At a meeting of the Board, which shall be held in the month of July of each year, the Board shall appoint a person to be Chairman for the ensuing period of twelve months.

(4.) At any meeting of the Board at which the Chairman is not present the members present shall appoint one of their number to act as chairman at that meeting.

10.—(1.) Subject to this Act, meetings of the Board shall be held at such times and places within the Commonwealth as the Board from time to time determines. Meetings of the Board.

(2.) The Chairman of the Board, or any three members thereof, may at any time call a special meeting of the Board.

(3.) At all meetings of the Board six members shall form a quorum.

(4.) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(5.) All questions before the Board shall be decided by a majority of votes.

(6.) The Board shall keep a record of its proceedings.

11.—(1.) There shall be an Executive Committee of the Board consisting of the Chairman of the Board and four members of the Board to be elected annually by the Board. Executive Committee of Board.

(2.) The Executive Committee shall have such powers and functions of the Board as the Board thinks fit.

(3.) At any meeting of the Executive Committee three members shall form a quorum.

(4.) In the event of the absence of the Chairman of the Board from any meeting of the Executive Committee, the members present at the meeting may elect one of their number to be the Chairman of the meeting.

(5.) At any meeting of the Executive Committee the Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(6.) All questions before a meeting of the Executive Committee shall be decided by a majority of votes.

(7.) In the event of a vacancy occurring in the Executive Committee, the Board may elect one of its members to hold the vacant office for the residue of the term for which the member whose office is vacant was elected.

London Agency
of Board.

12.—(1.) The Board may constitute an agency of the Board in London (in this Act referred to as “ the London Agency ”).

(2.) The London Agency shall consist of such number of persons as the Board from time to time determines, one of whom shall be appointed by the Governor-General, and shall hold office during the pleasure of the Governor-General, and the others shall be appointed by the Board and shall hold office during the pleasure of the Board.

(3.) The London Agency shall keep the Board advised as to current prices of dairy produce and as to other matters relative to the disposal of Australian dairy produce in England or elsewhere, and generally act as the agent of the Board in accordance with the directions of the Board.

Appointment
of officers.

13.—(1.) The Board may appoint such officers as are necessary to assist the Board in carrying out its functions under this Act.

(2.) Officers appointed in pursuance of this section shall not be subject to the *Commonwealth Public Service Act* 1922 and shall hold office during the pleasure of the Board.

(3.) The salaries and conditions of employment of officers appointed in pursuance of this section shall be as prescribed.

Dairy produce
not to be
exported save
in accordance
with
determination
of Board.

14.—(1.) For the purpose of enabling the Board effectively to control the export and the sale and distribution after export of Australian dairy produce, the Governor-General may by proclamation prohibit the export from the Commonwealth of any dairy produce except in accordance with a licence issued by the Minister subject to such conditions and restrictions as are prescribed after recommendation to the Minister by the Board.

(2.) Nothing in this section shall apply to the export of dairy produce to any port between the ninetieth and one hundred and eightieth degrees of East longitude and north of the thirtieth parallel of South latitude.

Licensing of
traders in
dairy produce.

15.—(1.) Where the Governor-General issues a proclamation in pursuance of the last preceding section, the Minister may grant to any person desiring to export dairy produce from the Commonwealth a licence to do so.

(2.) A licence under this section shall, subject to this section, be for such period as is specified in the licence and shall be granted upon such terms and conditions as are prescribed.

(3.) Where the Minister is satisfied, on report by the Board, that any person to whom a licence under this section has been granted has contravened or failed to comply with any term or condition upon which the licence was granted, the Minister may cancel the licence.

16. Any person who—

- (a) exports dairy produce from the Commonwealth in contravention of any proclamation under this Act ; or
- (b) being the holder of a licence under the last preceding section, contravenes or fails to comply with any term or condition upon which the licence was granted,

Penalty for export in contravention of proclamation.

shall be guilty of an offence.

Penalty : One hundred pounds.

17. The Board may accept control of any dairy produce placed under its control for the purposes of this Act.

Board may accept control of dairy produce intended for export. Saving as to existing contracts.

18.—(1.) Nothing in this Act shall apply with respect to the sale of any dairy produce if the Board is satisfied that there is subsisting a contract for the purchase and sale of that dairy produce made before the first day of September One thousand nine hundred and twenty-four.

(2.) Nothing in this Act shall apply, with respect to the sale of any dairy produce so as prejudicially to affect the operation of any contract of agency in respect of the sale of dairy produce out of the Commonwealth, if the contract has been entered into in writing on or before the first day of September One thousand nine hundred and twenty-four.

19.—(1.) After the constitution of the Board, or after such later date as the Minister on the recommendation of the Board, by notice in the *Gazette*, appoints, no contract for the carriage by sea to any place beyond the Commonwealth of any dairy produce shall be made except by the Board acting as the agent of the owners of the dairy produce or of other persons having authority to export the dairy produce, or in conformity with conditions approved by the Board.

Contracts for shipment of dairy produce.

(2.) Every contract for the carriage of dairy produce by sea to any place beyond the Commonwealth made otherwise than in accordance with this section shall be void.

(3.) Any person who, after the constitution of the Board or after such later date as the Board appoints, exports any dairy produce from the Commonwealth shall, on making entry therefor under the *Customs Act 1901-1923* and before the entry has been passed, satisfy the Collector or other officer of Customs that the contract for the shipment of the dairy produce has been approved by the Board.

(4.) This section shall apply, with the necessary modifications, to contracts made before the constitution of the Board or before such later date as the Board appoints (whether before or after the commencement of this Act) :

Provided that the approval of the Board shall not be required for any such contract if the dairy produce to which it relates is exported from Australia not later than the first day of January One thousand nine hundred and twenty-five.

Particular
powers of
Board.

20.—(1.) The Board shall, with respect to any dairy produce placed under its control, have full authority to make such arrangements and give such directions as it thinks fit for the following matters :—

- (a) The handling, marketing and storage of the dairy produce ;
- (b) The shipment of the dairy produce on such terms and in such quantities as it thinks fit ;
- (c) The sale and disposal of dairy produce on such terms as it thinks fit ;
- (d) The insurance against loss of any such dairy produce either in the Commonwealth or in transit from the Commonwealth and until disposed of ; and
- (e) All such matters as are necessary for the due discharge of its functions in handling, distributing and disposing of the dairy produce.

(2.) For the purpose of securing any advances made to the Board, or, at the request of the Board, to the owners of any dairy produce placed under the control of the Board, the Board shall, by virtue of this Act and without further authority, have full power, on behalf of the owners of the dairy produce, to give security over the dairy produce and to execute all mortgages and other instruments of assurance in the same manner in all respects as if the Board were the legal owners of the dairy produce.

Dairy Produce
Export Fund.

21.—(1.) There shall be a Dairy Produce Export Fund into which shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, all moneys received by the Collector of Customs under the *Dairy Produce Export Charges Act 1924*.

(2.) Where any account referred to in section twenty-three of this Act is opened, payment into that account of the moneys mentioned in the last preceding section shall be held to be payment into the fund.

(3.) Income derived from the investment of the fund shall form part thereof.

(4.) The income of the fund shall not be subject to taxation by the Commonwealth or a State.

Application of
moneys paid
into fund.

22. The moneys paid into the fund shall be applied by the Board as follows :—

- (a) In payment of the expenses, and other charges incurred by the Board or for which the Board may become liable in the course of its business ;
- (b) In payment of the salaries and wages of officers and servants of the Board ;

- (c) In payment of travelling allowances, fees or other remuneration to members of the Board or of the London Agency (not being persons permanently employed in the service of the Government); and
- (d) In investment in any securities of, or guaranteed by, the Government of the Commonwealth or of any State.

23. Moneys held in the fund, uninvested by the Board, may be lodged either in an account at call or on fixed deposit, or partly in an account at call and partly on fixed deposit with the Commonwealth Bank, or with any other prescribed bank, and while in such bank shall be held to be moneys of the Crown.

Moneys in fund uninvested may be lodged in bank.

24. Cheques drawn on any account referred to in the last preceding section shall be signed as prescribed.

How cheques signed.

25. All moneys received by the Board in respect of the sale of dairy produce or otherwise howsoever (except moneys forming part of the fund) shall be paid by the Board into a separate account at the Commonwealth Bank or any other prescribed bank.

Moneys received by Board.

26.—(1.) The Board may call upon any person to furnish, within such time as is specified by the Board, such returns in relation to the dairy industry as are necessary for the purposes of carrying out this Act.

Power to call for returns.

(2.) Any person who, being called upon in pursuance of this section to furnish a return in relation to any matter within his knowledge or under his control, fails to furnish the return within the time specified shall be guilty of an offence.

Penalty : One hundred pounds.

27. The accounts of the Board shall be subject to inspection and audit by the Auditor-General for the Commonwealth.

Audit.

28.—(1.) The Board in its corporate capacity shall, in all its operations under this Act, be deemed to be the agent of the owners of all dairy produce of which the Board has accepted control, and the mutual rights, obligations and liabilities of the Board and the several owners shall accordingly be determined in accordance with the law governing the relations between principals and agents, save that nothing in this Act shall be construed to limit the power of the Board to exercise, without the authority of the owner of any dairy produce, any power with respect to such dairy produce which is expressly or by implication conferred on the Board by or under this Act.

Liability of Board for its acts.

(2.) The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

29.—(1.) The Board shall, in the month of July in each year, report to the Minister generally as to the operation of the Act.

Annual report.

(2.) A copy of the report of the Board shall be laid on the Table of each House of the Parliament within seven days of its receipt by the Minister, if the Parliament is then sitting, and, if the Parliament is not then sitting, then within seven days of the next meeting of the Parliament.

(3.) The report shall be accompanied by a statement by the Minister regarding the operation of the Act.

Regulations.

30. The Governor-General may make regulations, not inconsistent with this Act, 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 for prescribing penalties not exceeding Fifty pounds for any breach of the regulations.
