



Apple and Pear Stabilization Amendment Act 1981

No. 15 of 1981

An Act to amend the *Apple and Pear Stabilization Act 1971*,
to repeal certain related Acts, and for other purposes

[Assented to 25 March 1981]

BE IT ENACTED by the Queen, and the Senate and the House of
Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Apple and Pear Stabilization Amendment Act 1981*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

PART II—AMENDMENTS OF THE APPLE AND PEAR STABILIZATION ACT 1971

Principal Act

3. The *Apple and Pear Stabilization Act 1971*¹ is in this Part referred to as the Principal Act.

Interpretation

4. (1) Section 3 of the Principal Act is amended by omitting from sub-section (1) the definition of "reputed box" and substituting the following definition:

"'reputed box' means 18 kilograms;".

(2) The amendment made by sub-section (1) has effect in relation to fruit picked on or after 1 October 1980.

Seasons to which Act applies

5. Section 5 of the Principal Act is amended by omitting from sub-section (1) "9" and substituting "13".

Average export return

6. Section 6 of the Principal Act is amended by adding at the end thereof the following sub-section:

"(8) The Minister shall not make a determination under sub-section (1) in respect of a variety of pears in relation to any season after the season that commenced on 1 October 1979."

Support price

7. Section 7 of the Principal Act is amended by adding at the end thereof the following sub-section:

"(3) The regulations shall not prescribe a support price in respect of a variety of pears in relation to any season after the season that commenced on 1 October 1979."

Stabilization payment

8. Section 10 of the Principal Act is amended by adding at the end thereof the following sub-sections:

"(5) A stabilization payment is not payable on the exportation of apples during the season that commenced on 1 October 1980 or during any of the next 3 succeeding seasons unless the apples are exported to a country in Europe (including the United Kingdom of Great Britain and Northern Ireland).

"(6) A stabilization payment is not payable on the exportation of pears picked during any season after the season that commenced on 1 October 1979."

Rate of stabilization payment

9. Section 11 of the Principal Act is amended—

(a) by omitting from sub-section (2D) "the next succeeding season" and substituting "either of the next 2 succeeding seasons"; and

(b) by inserting after sub-section (2E) the following sub-sections:

"(2F) The rate of a stabilization payment in respect of apples picked during the season commencing on 1 October 1981 shall not exceed an amount per reputed box, or part of a reputed box, in each container of apples equal to—

(a) \$1.65; or

- (b) a number of cents equal to the product of 165 and 1,500,000 divided by a number equal to the number of reputed boxes of apples picked during that season and—
 - (i) exported on consignment to a country in Europe (including the United Kingdom of Great Britain and Northern Ireland) during that season; and
 - (ii) sold after exportation and before the end of that season,whichever is the lesser amount.

“(2G) The rate of a stabilization payment in respect of apples picked during the season commencing on 1 October 1982 shall not exceed an amount per reputed box, or part of a reputed box, in each container of apples equal to—

- (a) \$1.10; or
- (b) a number of cents equal to the product of 110 and 1,500,000 divided by a number equal to the number of reputed boxes of apples picked during that season and—
 - (i) exported on consignment to a country in Europe (including the United Kingdom of Great Britain and Northern Ireland) during that season; and
 - (ii) sold after exportation and before the end of that season,whichever is the lesser amount.

“(2H) The rate of a stabilization payment in respect of apples picked during the season commencing on 1 October 1983 shall not exceed an amount per reputed box, or part of a reputed box, in each container of apples equal to—

- (a) \$0.55; or
- (b) a number of cents equal to the product of 55 and 1,500,000 divided by a number equal to the number of reputed boxes of apples picked during that season and—
 - (i) exported on consignment to a country in Europe (including the United Kingdom of Great Britain and Northern Ireland) during that season; and
 - (ii) sold after exportation and before the end of that season,whichever is the lesser amount.”.

10. After section 11 of the Principal Act the following section is inserted:

Effect on stabilization payments of underwriting payments

“11A. (1) Where—

- (a) an underwriting payment is payable in respect of the apples in a container; and

- (b) but for this section, there would be payable in respect of those apples a stabilization payment of an amount that is equal to, or less than, the amount of the underwriting payment,

a stabilization payment is not payable in respect of those apples.

“(2) Where both a stabilization payment and an underwriting payment are payable in respect of the apples in a container, the amount of the stabilization payment shall be reduced by an amount equal to the amount of the underwriting payment.

“(3) In this section, ‘underwriting payment’ means an underwriting payment under the *Apple and Pear Export Underwriting Act 1981*.”.

11. After section 12 of the Principal Act the following section is inserted:

Appropriation for stabilization payments

“12A. Stabilization payments in respect of apples exported during the season that commenced on 1 October 1980 or during any of the next 3 succeeding seasons are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.”.

Application of stabilization fund

12. Section 16 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(3) In this section, ‘stabilization payment’ does not include a stabilization payment referred to in section 12A.”.

Refund of excess balances in stabilization funds

13. Section 17 of the Principal Act is amended—

- (a) by omitting sub-section (3) and substituting the following sub-section:

“(3) As soon as practicable after the commencement of the *Apple and Pear Stabilization Amendment Act 1981*, and after the making in respect of a stabilization fund of all payments into the fund and of all payments out of the fund apart from this sub-section, any moneys standing to the credit of the fund shall be paid out of the fund by the Minister in accordance with this section.”; and

- (b) by omitting sub-section (10).

14. (1) Sections 18, 19, 20 and 21 of the Principal Act are repealed and the following sections substituted:

Furnishing of returns

“18. (1) An authorized person may, by notice in writing given, or sent by post, to a person, require the person to furnish, within such time as is specified in the notice, such return or information in relation to matters relevant to the operation of this Act as is specified in the notice.

“(2) A person shall not, without reasonable excuse, fail or neglect duly to furnish a return or information that he is required to furnish by virtue of a notice given, or sent by post, to him under sub-section (1).

“(3) A person is not excused from furnishing a return or information that he is required to furnish by virtue of a notice given, or sent by post, to him under sub-section (1) on the ground that the return or information might tend to incriminate him or make him liable to a penalty, but any return or information so furnished is not admissible in evidence against him in proceedings other than proceedings for an offence against sub-section (4).

“(4) A person shall not furnish a return or information that, to his knowledge, is false or misleading in a material particular.

Penalty: \$1,000.

Offences in relation to stabilization payments

“19. (1) A person who receives, in respect of a stabilization payment, a payment that, to his knowledge, is not payable to him, or exceeds the amount payable to him, shall, as soon as practicable, inform—

- (a) where the payment was made by the Corporation—the Corporation; or
- (b) in any other case—the Department that deals with matters arising under this Act,

accordingly.

Penalty: \$2,000 or imprisonment for 12 months, or both.

“(2) Where a person is convicted of an offence under sub-section (1), the court may, in addition to imposing a penalty under that sub-section, order the person to repay to the Commonwealth the amount of the payment in respect of a stabilization payment or the amount by which the payment in respect of a stabilization payment exceeded the amount properly payable, as the case may be.

“(3) Where a court has made an order under sub-section (2), a certificate under the hand of the clerk or other appropriate officer of the court specifying the amount ordered to be repaid and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of the last-mentioned court.

Overpayments

“20. Where a person has received, in respect of a stabilization payment, a payment that was not payable to him or exceeds the amount that was payable to him, the amount of the payment, or of the excess, as the case may be, if not otherwise recovered, may be recovered by the Commonwealth from the person, as a debt due to the Commonwealth, by action in a court of competent jurisdiction.”.

(2) If, after the commencement of this section, a court convicts a person of an offence against paragraph 21 (1) (c) of the Principal Act, the court shall not sentence that person to imprisonment for that offence.

Access to premises

15. Section 22 of the Principal Act is amended—

(a) by inserting in sub-section (3) “or affirmation” after “oath”;

(b) by inserting after sub-section (3) the following sub-section:

“(3A) A warrant under sub-section (3) shall specify a date after which the warrant ceases to have effect.”; and

(c) by omitting sub-section (5).

Exporter to keep proper books and accounts, &c.

16. (1) Section 23 of the Principal Act is amended by omitting “\$200” and substituting “\$1,000”.

(2) The amendment made by sub-section (1) does not apply in relation to offences committed before the commencement of this section.

PART III—REPEAL OF CERTAIN ACTS AND CONSEQUENT TRANSITIONAL PROVISION

Repeal of certain Acts

17. (1) The Acts set out in the Schedule are repealed.

(2) Notwithstanding the repeals effected by sub-section (1), the *Apple and Pear Stabilization Export Duty Act 1971* and the *Apple and Pear Stabilization Export Duty Collection Act 1971*, as in force immediately before the commencement of this Act, continue to apply in relation to fruit exported during the season that commenced on 1 October 1979 or during any earlier season.

SCHEDULE

Section 17

ACTS REPEALED

Apple and Pear Stabilization Export Duty Act 1971
Apple and Pear Stabilization Export Duty Amendment Act 1976
Apple and Pear Stabilization Export Duty Amendment Act 1977
Apple and Pear Stabilization Export Duty Amendment Act (No. 2) 1977
Apple and Pear Stabilization Export Duty Amendment Act 1978
Apple and Pear Stabilization Export Duty Collection Act 1971
Apple and Pear Stabilization Export Duty Collection Act 1973
Apple and Pear Stabilization Export Duty Collection Amendment Act 1976
Apple and Pear Stabilization Export Duty Collection Amendment Act 1977
Apple and Pear Stabilization Export Duty Collection Amendment Act (No. 2) 1977
Apple and Pear Stabilization Export Duty Collection Amendment Act 1978

NOTE

1. No. 81, 1971, as amended. For previous amendments, see No. 106, 1972; No. 195, 1973; No. 44, 1976; Nos. 17 and 145, 1977; and Nos. 36 and 120, 1978.