



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 89 of 1984

An Act to amend the Canned Fruits Marketing Act, 1980.*[Assented to 29 November 1984]*

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. (1) This Act may be cited as the "Canned Fruits Marketing Act Amendment Act, 1984".

(2) The Canned Fruits Marketing Act, 1980, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on the first day of January, 1985.

Amendment of
s. 4—
Interpretation.

3. Section 4 of the principal Act is amended—

(a) by inserting in subsection (1) after the definition of "Advisory Committee" the following definition:

"annual operation plan" has the same meaning as in the Commonwealth Act;

(b) by inserting in subsection (1) after the definition of "Commonwealth Minister" the following definition:

"corporate plan" has the same meaning as in the Commonwealth Act;

(c) by inserting in subsection (1) after the definition of "equalization market" and "equalization pool" the following definition:

"insurance account" means the insurance account maintained under section 7a;

(d) by striking out from the definition of "season" in subsection (1) the word "four" and substituting the word "seven";

(e) by striking out paragraph (b) of subsection (3) and the word immediately preceding that paragraph and substituting the following paragraphs:

(b) where the Corporation was fully or partly insured against relevant risks (within the meaning of section 7a) in

respect of the canned fruits, an amount calculated in respect of the canned fruits at the insurance reimbursement rate in force under section 7a (3), or under the corresponding provision of the Commonwealth Act or a State Act, at the time of that disposal;

and

(c) where the Corporation was not fully insured against those risks, an amount calculated in respect of the canned fruits at the insurance account reimbursement rate in force under section 7a (6), or under the corresponding provision of the Commonwealth Act or a State Act, at the time of that disposal;

and

(f) by inserting after subsection (4) the following subsection:

(4a) For the purposes of subsection (3), any money paid out of the insurance account in accordance with section 7a (7) (a) in respect of canned fruits shall be deemed to be proceeds of the disposal of those canned fruits.

4. Section 6 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

(1a) To the extent that it is practicable to do so, the Corporation shall endeavour to ensure that the exercise, at any time, of the powers conferred on it by this Act is consistent with, and designed to give effect to—

(a) where the corporate plan is in force at that time—the provisions of that plan;

and

(b) where an annual operational plan is in force at that time—the provisions of that annual operational plan.;

and

(b) by striking out subsection (3).

5. The following section is inserted after section 7 of the principal Act:

7a. (1) In this section, “relevant risk” means the risk of loss or deterioration of, or damage to, canned fruits acquired by the Corporation under this Act.

(2) The Corporation may insure against relevant risks.

(3) The cost to the Corporation of the insurance permitted by subsection (2) shall be met out of the proceeds of the disposal by the Corporation of the canned fruits covered by the insurance and, for that purpose, the Corporation shall, from time to time, fix an insurance reimbursement rate.

(4) So long as the Corporation is not fully insured by policies of insurance against all relevant risks, the Corporation shall maintain an account, to be known as the “insurance account”, for the purpose

Amendment of
s. 6—
Powers of
Corporation.

Insertion of new
section 7a.
Insurance.

of making provision against relevant risks so far as they are not covered by insurance.

(5) The Corporation shall pay into the insurance account such amounts as, in the opinion of the Corporation, ensure that the amount from time to time standing to the credit of the insurance account is sufficient for the purpose of making adequate provision against relevant risks so far as those risks are not covered by insurance.

(6) Payments by the Corporation into the insurance account in accordance with subsection (5) shall be reimbursed, or paid, out of the proceeds of the disposal by the Corporation of canned fruits, being canned fruits in respect of which the Corporation was not fully insured against relevant risks and, for that purpose, the Corporation shall, from time to time, fix an insurance account reimbursement rate.

(7) Money in the insurance account may be applied only in payment of—

(a) where the Corporation suffers loss, not fully covered by insurance, by reason of a relevant risk—such amount in respect of that loss as the Corporation considers appropriate having regard to the provisions made under this section in lieu of insurance against that risk;

and

(b) such amounts as, in the opinion of the Corporation, are appropriate to make provision for expenses or other liabilities that have been or will be incurred by the Corporation in maintaining the insurance account or otherwise in or in connection with making provision against relevant risks so far as they are not covered by insurance.

(8) The Commonwealth Minister may, by determination in writing—

(a) set guidelines for the purpose of the exercise by the Corporation of its powers under this section;

and

(b) revoke or vary guidelines set for that purpose or set new guidelines for that purpose,

and shall give the Corporation a copy of each determination made under this subsection.

(9) The Corporation shall not exercise its powers under this section otherwise than in accordance with any guidelines having effect from time to time under subsection (8).

6. Section 9 of the principal Act is amended—

(a) by striking out from subsection (3) the passage “One thousand dollars” and substituting the passage “Two thousand dollars”;

(b) by striking out from subsection (3) the passage “two thousand dollars” and substituting the passage “ten thousand dollars”;

and

(c) by striking out from subsection (5) the passage "Five hundred dollars" and substituting the passage "One thousand dollars".

7. Section 10 of the principal Act is amended—

Amendment of
s. 10—
Canned fruits.

(a) by striking out from subsection (2) the passage "One thousand dollars" and substituting the passage "Two thousand dollars";

and

(b) by striking out from subsection (2) the passage "two thousand dollars" and substituting the passage "ten thousand dollars".

8. Section 11 of the principal Act is amended—

Amendment of
s. 11—
Unauthorized
dealings with
canned fruits.

(a) by striking out from subsection (1) the passage "One thousand dollars" and substituting the passage "Two thousand dollars";

and

(b) by striking out from subsection (1) the passage "two thousand dollars" and substituting the passage "ten thousand dollars".

9. Section 12 of the principal Act is repealed.

Repeal of s. 12.

10. The following section is inserted after section 13 of the principal Act:

Insertion of new
section 13a.

13a. Where—

Excess proceeds.

(a) the Corporation has determined a minimum price for which particular canned fruits are to be disposed of (whether or not the relevant determination applies to other canned fruits);

and

(b) those canned fruits are disposed of by a marketing agent at a price higher than the price so determined,

then, unless the Corporation, by instrument in writing, otherwise directs, the amount of the difference between the amount of the proceeds of the disposal of those canned fruits by the marketing agent and the amount that would have been the amount of the proceeds of their disposal if they had been disposed of by the marketing agent at the price determined by the Corporation—

(c) shall be disposed of in accordance with arrangements between the marketing agent and the person to whom the amount payable by the Corporation under section 13 or 14 in respect of those relevant canned fruits is to be paid in accordance with section 15;

and

(d) for the purposes of section 4 (3), shall not be taken to be part of the proceeds of the disposal of those canned fruits.

11. Section 18 of the principal Act is amended—

Amendment of
s. 18—
Corporation may
require
information.

(a) by inserting after subsection (2) the passage "Penalty: One thousand dollars.";

and

(b) by striking out from subsection (4) the passage "Five hundred dollars" and substituting the passage "One thousand dollars or imprisonment for six months".

Amendment of
s. 22—
Proper care to be
taken of canned
fruits owned by
the Corporation.

12. Section 22 of the principal Act is amended by striking out the passage "Two hundred dollars" and substituting the passage "Five hundred dollars".

Amendment of
s. 23—
Access to
premises.

13. Section 23 of the principal Act is amended by striking out from subsection (6) the passage "Five hundred dollars" and substituting the passage "One thousand dollars or imprisonment for six months".

Amendment of
s. 25—
Regulations.

14. Section 25 of the principal Act is amended by striking out the passage "two hundred dollars" and substituting the passage "five hundred dollars".

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

D. B. DUNSTAN, Governor