

# APPLE AND PEAR ORGANIZATION.

No. 38 of 1964.

## An Act relating to the Marketing of Apples and Pears.

[Assented to 28th May, 1964.]

[Date of commencement, 25th June, 1964.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title,  
and citation.

1.—(1.) This Act may be cited as the *Apple and Pear Organization Act 1964*.

(2.) The *Apple and Pear Organization Act 1938–1960\** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Apple and Pear Organization Act 1938–1964*.

Australian  
Apple and  
Pear Board.

2.—(1.) Section four of the Principal Act is amended—

(a) by omitting from sub-section (3.) the word “Governor-General” and inserting in its stead the word “Minister”; and

(b) by omitting sub-sections (4.) to (15.) (inclusive) and inserting in their stead the following sub-sections:—

“ (4.) The members representing the growers in any State (other than the State of Tasmania) shall be growers and shall be elected by a poll of growers taken in the prescribed manner in that State.

“ (5.) The members representing growers in a portion of the State of Tasmania shall be growers and shall be appointed on the nomination of the State Fruit Board of that State.

“ (6.) Members of the Board shall, subject to this section, hold office for a period of three years, but are eligible for re-appointment or re-election, as the case may be.

“ (7.) The Minister may, at any time, remove from office a member referred to in paragraph (a), (d), (e) or (f) of sub-section (2.) of this section.

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\* Act No. 58, 1938, as amended by No. 44, 1947; No. 27, 1948; No. 35, 1953; and No. 79, 1960.

“(8.) The Minister may, if the State Fruit Board of the State of Tasmania so recommends, remove from office a member referred to in paragraph (b) or (ba) of sub-section (2.) of this section.

“(9.) The Minister may, at any time, if the Board so recommends, remove from office a member referred to in paragraph (c) of sub-section (2.) of this section.

“(10.) The Minister may, at any time, remove from office a member referred to in paragraph (b), (ba) or (c) of sub-section (2.) of this section on the ground of misbehaviour or incapacity.

“(11.) On the occurrence of a vacancy in the office of a member, other than the Government representative, before the expiration of the term of office of the member, the Minister may appoint a person to fill the vacancy, and the person so appointed shall hold office for the residue of that term.

“(12.) Subject to the requirements of this Act in respect of a quorum, the exercise by the Board of its powers and functions under this Act is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.”

(2.) A person who, immediately before the commencement of this Act, held office as a member of the Australian Apple and Pear Board continues to hold office for the remainder of the term for which he was appointed or elected as if he had been appointed or elected under the Principal Act as amended by this Act.

3. Section six of the Principal Act is amended by omitting from sub-section (1.) the word “Governor-General” and inserting in its stead the word “Minister”.

*Deputies of members.*

4. Section twelve of the Principal Act is amended by omitting sub-section (3.).

*Employment of staff.*

5. After section twelve of the Principal Act the following section is inserted:—

“12A.—(1.) Where a person who is employed by the Board was, immediately before his employment, an officer of the Public Service of the Commonwealth—

*Officers' Rights Declaration Act.*

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service (whether before or after the commencement of this section) as a person employed by the Board shall be taken into account as if it were service in the Public Service of the Commonwealth; and
- (c) the *Officers' Rights Declaration Act 1928-1959* applies as if this Act and this section had been specified in the Schedule to that Act.

“(2.) For the purposes of this section, a person who holds office under section eleven of this Act as a representative of the Board overseas shall be deemed to be employed by the Board and, where such a person commenced to hold office before the commencement of this section, he shall be deemed to have been so employed from and including the day on which he commenced to hold office.”.

Power to  
control export  
of apples and  
pears.

6. Section fourteen of the Principal Act is amended—

(a) by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

“(1.) The Board may, at any time during a year, determine the quantity of apples or pears, or both, harvested in all States in that year that may be exported to a particular country or particular countries.

“(2.) Where, in a year, a determination is made under the last preceding sub-section in relation to a country or countries, the Board may, at the same time or at a later time during that year, determine, in respect of each State, the quantity of apples or pears, or both, harvested in the State in that year that may be exported to that country or those countries, but so that the total of the quantities determined under this sub-section equals the quantity specified in the determination under the last preceding sub-section.

“(2A.) The Board shall not exercise its powers under this section in a manner that gives preference to one State or any part of one State over another State or any part of another State.

“(2B.) The Board shall not exercise its powers under the regulations in a manner that is inconsistent with a determination under sub-section (1.) or (2.) of this section.”; and

(b) by omitting sub-sections (7.) and (8.) and inserting in their stead the following sub-sections:—

“(7.) If the members present at a meeting of the Board are unable to arrive at a unanimous decision in respect of any matter arising for determination under sub-section (1.) or (2.) of this section, the Board shall refer the matter to the Minister for determination, and the Minister may make, in respect of the matter, any determination under the relevant sub-section that the Board could lawfully have made.

“(8.) In this section, ‘year’ means a period commencing on the first day of January and ending on the following thirty-first day of December.”.