



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 63 of 1971

An Act to amend the Citrus Industry Organization Act,
1965-1970

[Assented to 21st October, 1971]

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

Short titles.

1. (1) This Act may be cited as the "Citrus Industry Organization Act Amendment Act, 1971".

(2) The Citrus Industry Organization Act, 1965-1970, as amended by this Act, may be cited as the "Citrus Industry Organization Act, 1965-1971".

(3) The Citrus Industry Organization Act, 1965-1970, is hereinafter referred to as "the principal Act".

Amendment of
principal Act,
s. 2a—
Validation of
certain acts.

2. Section 2a of the principal Act is amended by striking out from subsection (2) the passage—

and

(c) the twenty-fifth day of January, 1968, shall be deemed to be and always to have been the day declared by proclamation to be the prescribed day for the purposes of Division I of Part II of this Act.

3. Section 9 of the principal Act is amended—

Amendment of
principal Act,
s. 9—
Constitution of
Committee.

(a) by striking out from subsection (3) the passage “, who is to take office on or after the prescribed day and shall not be appointed as a representative member to take office on or after that day”;

and

(b) by striking out from subsection (3b) the passage “who is to take office on or after the prescribed day”.

4. Section 20 of the principal Act is amended by striking out subsection (7) and inserting in lieu thereof the following subsection:—

Amendment of
principal Act,
s. 20—
Power to grant
licences.

(7) A licensee who contravenes or fails to comply with any term or condition to which his licence is subject shall be guilty of an offence against this Act and shall on conviction be liable—

(a) for a first offence, to a penalty not less than fifty dollars nor more than four hundred dollars;

and

(b) for any subsequent offence, to a penalty not less than one hundred dollars nor more than four hundred dollars.

5. Section 21 of the principal Act is amended by striking out paragraph (d) of subsection (1) and inserting in lieu thereof the following paragraph:—

Amendment of
principal Act,
s. 21—
General powers
of Committee.

(d) permit payment in instalments, when and in whatever manner the Committee thinks fit, of any moneys payable to the Committee under this Act;

6. Section 22 of the principal Act is amended by striking out subsection (4) and inserting in lieu thereof the following subsections:—

Amendment of
principal Act,
s. 22—
Power to issue
marketing
orders.

(4) A person who contravenes or fails to comply with any direction contained in any order made under this section which is applicable to him shall be guilty of an offence against this Act and shall on conviction be liable—

(a) for a first offence, to a penalty not less than fifty dollars nor more than four hundred dollars;

and

(b) for any subsequent offence, to a penalty not less than one hundred dollars nor more than four hundred dollars, and in the case of a breach of an order made under paragraph (b) or (b1) of subsection (1) of this section, to an additional penalty of an amount equal to the value of the citrus fruit the subject of that breach ascertained in accordance with the provisions of subsection (5) of this section.

(5) For the purposes of ascertaining the additional penalty referred to in subsection (4) of this section, the value of the citrus fruit shall be calculated in accordance with the wholesale price obtained for citrus fruit of similar type and quality, either by the Committee or a person licensed or authorized under this Act to sell citrus fruit, on the day on which that breach was committed, or if no wholesale price had been obtained for such fruit on that day, then the wholesale price obtained either by the Committee or a person so licensed or authorized on a day not more than seven days before or after the day on which the breach was committed, and a certificate purporting to be signed by the secretary of the Committee and certifying the wholesale price so obtained for citrus fruit of similar type and quality shall be *prima facie* evidence of that wholesale price.

Repeal of s. 23
of principal
Act and
enactment of
section in its
place.

Levy to meet
expenses.

7. Section 23 of the principal Act is repealed and the following section is enacted and inserted in its place:—

23. (1) The Committee may, with the approval of the Minister and subject to this section, from time to time require all growers to pay to the Committee contributions towards the cost of the administration of this Act and the carrying out of the powers, functions and duties of the Committee under this Act.

(2) The Committee shall, before it requires payment of any contributions under this section—

(a) give notice, published on the same day in the *Gazette* and in a daily newspaper circulating generally in the State, of its intention to require payment of those contributions;

and

(b) specify in that notice the manner in which the contributions are to be computed, the period with respect to which they relate and such other information as the Committee thinks fit.

(3) If within a period of thirty days after the publication of the notice the Committee receives a petition signed by not less than one hundred growers requesting that a poll be conducted on the question whether payment of those contributions should be required, the Committee shall forthwith transmit the register of growers to the Returning Officer for the State who, subject to this Act, shall, as soon as practicable after receiving that register, conduct in such manner as he thinks proper a poll of the growers whose names appear in that register.

(4) If no petition is received by the Committee within the period of thirty days referred to in subsection (3) of this section or if a poll is conducted in accordance with that subsection and is in favour of the proposed payment of those contributions, the Committee may publish a further notice on the same day in the *Gazette* and in a daily newspaper circulating generally in the State—

- (a) requiring payment of those contributions;
 - (b) specifying that the provisions of this section have been complied with;
 - (c) specifying the manner in which the contributions are computed and the period with respect to which they relate;
 - (d) specifying the day on which the contributions are due and payable to the Committee;
- and
- (e) giving such other information as the Committee thinks fit,

and, subject to this section, on the day so specified in that further notice all growers shall be liable to pay those contributions to the Committee.

(5) The Committee shall, as soon as practicable after the publication of the further notice referred to in subsection (4) of this section, either personally or by post, serve each person liable to contribute under this section a notice in writing stating the amount payable by him, the day on or before which that amount is due and payable and, if the Committee has decided that payment may be made by instalments, the amount and time for payment of each such instalment.

(6) If any contribution or instalment thereof is not paid in full within a period of fourteen days, or such longer period as the committee may in any case allow, after the day on which it became due and payable, the Committee or any officer authorized in writing in that behalf by the Committee and acting on behalf of the Committee may recover the amount owing as a debt, by action in any court of competent jurisdiction.

(7) Any moneys due and payable to the Committee under section 23 of this Act as in force immediately prior to the commencement of the Citrus Industry Organization Act Amendment Act, 1971, shall, so long as they have not been paid under this Act, continue to be due and payable to the Committee after the commencement of that Act and this Act shall apply to and in relation to those moneys as if they were moneys due and payable to the Committee by way of contributions under this section.

Amendment of
principal Act
s. 24—
Power to
require returns.

8. Section 24 of the principal Act is amended—

(a) by inserting in paragraph (b) of subsection (2) after subparagraph (ii) the following passage:—

and

(iii) the total acreage of citrus trees planted or grown by him for the production and sale of citrus fruit, as at the date or within the period specified in the notice.;

and

(b) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) A person who—

(a) without reasonable excuse refuses or fails to comply with a requirement under this section;

or

(b) furnishes to the Committee any information which to his knowledge is false or misleading in a material particular,

shall be guilty of an offence against this Act and shall on conviction be liable—

(c) for a first offence, to a penalty not less than fifty dollars nor more than two hundred dollars;

and

(d) for any subsequent offence, to a penalty not less than one hundred dollars nor more than two hundred dollars.

9. Section 27 of the principal Act is amended—

- (a) by striking out from subsection (4) the passage “Penalty: One hundred dollars.”;
- (b) by striking out from subsection (5) the passage “Penalty: Two hundred dollars.”;
- (c) by striking out from subsection (6) the passage “Penalty: One hundred dollars.”;
- (d) by striking out from subsection (7) the passage “Penalty: One hundred dollars.”;
- (e) by striking out from subsection (8) the passage “Penalty: One hundred dollars.”;

Amendment of principal Act, s. 27—

Powers of inspectors to enter upon lands, etc.

and

(f) by inserting after subsection (9) the following subsection:—

(10) A person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act and shall on conviction be liable—

(a) for a first offence, to a penalty not less than fifty dollars nor more than two hundred dollars;

and

(b) for any subsequent offence, to a penalty not less than one hundred dollars nor more than two hundred dollars.

10. Section 28 of the principal Act is amended—

- (a) by striking out from subsection (4) the passage “Penalty: Two hundred dollars.”;

Amendment of principal Act, s. 28—

Registration of brands and trade marks.

and

(b) by inserting after subsection (4) the following subsection:—

(4a) Any person who contravenes or fails to comply with any of the provisions of subsection (4) of this section shall be guilty of an offence against this Act and on conviction shall be liable—

(a) for a first offence, to a penalty not less than fifty dollars nor more than two hundred dollars;

and

(b) for any subsequent offence, to a penalty not less than one hundred dollars nor more than two hundred dollars.

Amendment of
principal Act,
s. 30—
Offences in
connection
with the
marketing of
citrus fruit.

11. Section 30 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “Penalty: Four hundred dollars.”;

(b) by striking out from subsection (2) the passage “Penalty: Two hundred dollars.”;

and

(c) by inserting after subsection (3) the following subsection:—

(4) A person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act and shall on conviction be liable—

(a) for a first offence, to a penalty not less than fifty dollars nor more than four hundred dollars;

and

(b) for any subsequent offence, to a penalty not less than one hundred dollars nor more than four hundred dollars.

Amendment of
principal Act
s. 33—
Offences and
penalties.

12. Section 33 of the principal Act is amended by inserting after subsection (2) the following subsections:—

(3) Any legal proceedings under this Act may be taken on behalf of the Committee by any officer of the Committee authorized in writing in that behalf by the Committee.

(4) In any legal proceedings instituted by or on behalf of the Committee under this Act, an allegation contained in the complaint or summons—

(a) that an officer is appointed as an officer of the Committee;

(b) that an officer is authorized to take proceedings on behalf of the Committee;

or

(c) that a person has been given by the Committee the authority to do any act or thing,

shall be conclusive proof of that appointment, authorization or authority, as the case may be.

(5) On the hearing of any complaint or summons containing an allegation that a person purchased or took delivery of citrus fruit contrary to the provisions of an order made by the Committee under this Act, evidence—

(a) that the person charged was in possession or control of citrus fruit at a particular time;

and

(b) that the person charged on being requested by an inspector to produce to that inspector either a sales docket evidencing that the citrus fruit was purchased by that person or a delivery note evidencing that the citrus fruit was delivered to that person—

(i) failed or refused to produce such a sales docket or delivery note to the inspector;

or

(ii) produced to the inspector a sales docket or delivery note which did not purport to have been issued and in fact had not been issued by or on behalf of the Committee or by a person licensed or authorized under this Act to sell citrus fruit,

shall be *prima facie* evidence of that allegation.

13. Section 34 of the principal Act is amended by inserting in paragraph (c) of subsection (1) after the word "section" the passage "23 and section".

Amendment of
principal Act,
s. 34—
Regulations.

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

J. M. NAPIER, Lieutenant-Governor