



ANNO DUODECIMO

GEORGII VI REGIS.

A.D. 1948.

No. 32 of 1948.

An Act relating to the marketing of potatoes and other matters incidental thereto.

[Assented to 16th December, 1948.]

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

1. This Act may be cited as the "Potato Marketing Act, 1948". Short title.

2. (1) The provisions of this Act, other than this section, shall not come into operation unless the Governor declares by proclamation that they shall do so on a day mentioned in the proclamation. Commence-
ment of Act.

(2) A proclamation shall not be made under this section unless a poll has first been held on the question whether this Act shall be brought into operation and a majority of the total number of persons who vote at the poll, vote in the affirmative.

(3) The Returning Officer for the State shall conduct a poll under this section as soon after this Act receives the Royal Assent as is convenient.

(4) Subject to subsections (5) and (6) of this section, each of the following persons shall be qualified to vote at the poll :—

- (a) every person who was on the first day of October, nineteen hundred and forty-eight, registered by the Australian Potato Committee established under the National Security (Potatoes) regulations as a potato grower :

(b) every person who satisfies the Minister before a day to be fixed by the Minister by public notice that he occupies land and intends during the year nineteen hundred and forty-nine to grow potatoes for sale, on at least one acre, or that he is a party to a share-farming agreement under which the parties intend in that year to grow potatoes for sale on at least one acre.

(5) A person shall not be entitled to vote at the poll unless he is enrolled as an elector of the House of Assembly.

(6) The Minister shall prepare and supply to the Returning Officer for the State a list containing the names of all persons qualified to vote as provided in subsections (4) and (5) of this section. The persons whose names appear on that list, and no others shall be entitled to vote at the poll.

(7) The poll shall be conducted by postal voting, and each voter shall have one vote.

(8) Subject to this Act and the regulations the poll shall be conducted in such manner as the Returning Officer for the State deems proper.

(9) The Governor may make regulations prescribing any matters necessary or convenient to be prescribed in connection with the poll to be held under this section.

Interpretation.

3. (1) In this Act, unless the context otherwise requires—

“the board” means The South Australian Potato Board constituted under this Act :

“grower” means any person who grows potatoes for sale, or is a party to a partnership or share-farming agreement under which potatoes are grown for sale :

“member” includes chairman :

“Minister” means the Minister of the Crown for the time being holding or acting in the office of Minister of Agriculture :

“public notice” means a notice published in the *Gazette* and in a daily newspaper.

“sell” includes barter.

(2) This Act shall not apply to potatoes the subject of trade commerce or intercourse between States, or required or intended by the owners thereof for trade commerce or intercourse between States.

The South Australian Potato Board.

4. (1) For the purpose of this Act there shall be a board to be known as The South Australian Potato Board. Constitution of board.

(2) The board shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of suing and being sued, and of acquiring, holding, and disposing of, property of all kinds.

5. (1) The board shall consist of nine members. Members of board.

(2) Two members shall be appointed by the Governor. One of them shall be the chairman of the board. The other shall be appointed on the recommendation of the Minister as being a suitable person to represent the interests of retail sellers of potatoes.

(3) Five members shall be growers' representatives and two shall be merchants' representatives, and these members shall, except as provided in subsection (4) of this section, be elected as provided in this Act.

(4) If a casual vacancy occurs in the office of either an appointed or an elected member of the board, the Governor shall appoint a suitable person to that vacancy.

6. (1) At the first election of growers' representatives every person who— Election of members.

(a) on the first day of October, nineteen hundred and forty-eight, was registered as a potato grower by the Australian Potato Committee established under the National Security (Potatoes) regulations ; or

(b) satisfies the Minister before a day to be fixed by the Minister by public notice that he owns or occupies land on at least one acre of which he intends in the year nineteen hundred and forty-nine to grow potatoes for sale, or that he is a party to a share-farming agreement under which the parties intend in that year to grow potatoes for sale on at least one acre,

shall be entitled to one vote.

(2) At every subsequent election of growers' representatives every person who is registered as a grower under this Act shall be entitled to one vote.

(3) At the first election of merchants' representatives every person who on the first day of October, nineteen hundred and forty-eight, was a registered wholesale potato merchant under the National Security (Potatoes) regulations shall be entitled to one vote.

(4) At every subsequent election of merchants' representatives every merchant licensed under this Act shall be entitled to one vote.

(5) For the purpose of any election the Minister may by notice in the *Gazette*, divide the State into districts and fix the number of members to be elected in each district.

(6) Every election of members of the board shall be by postal voting and shall be conducted by the returning officer for the State.

(7) The Governor may by regulation prescribe any matters necessary or convenient to be prescribed in relation to elections under this section.

(8) Subject to this Act and the regulations every election shall be held in such manner as the Returning Officer for the State determines.

**Term of
office.**

7. (1) Subject to the other provisions of this Act, each member of the board shall hold office for four years, calculated as from the first day of July in the year in which he was elected or appointed.

(2) If the term of office of a member expires before his successor is elected or appointed, he shall remain in office until his successor is elected or appointed.

(3) Three of the first members elected by growers and one of the first members elected by merchants shall retire on the thirtieth day of June in the second year after the year in which they were elected. The members so to retire shall be determined by agreement between all the members and in default of agreement, by drawing lots.

(4) A member appointed to fill a casual vacancy in the office of a member appointed by the Governor shall hold office for the unexpired portion of the term of the member in whose place he was appointed. A member appointed to fill a casual vacancy in the office of an elected member shall hold office until the next thirtieth day of June on which any members of the board retire. An election shall be held to fill the casual vacancy as from that day. If on the said day the normal term of office of the member in whose office the casual vacancy occurred, has not expired, the member elected shall hold office until that term expires. If on the said thirtieth day of June the normal term of office of the member in whose office the casual vacancy occurred, expires or has expired, the member elected shall, subject to this Act, hold office for four years.

(5) A retiring member shall be eligible for re-appointment.

8. The office of a member shall become vacant if he—

Casual
vacancies

- (a) dies ;
- (b) resigns by written notice given to the Minister ;
- (c) is removed from his office by the Governor for neglect of duty, dishonest conduct, or mental or physical incapacity to perform his duties as a member ;
- (d) absents himself, without permission of the board, from more than four consecutive meetings of the board, and is declared by resolution of the board to have forfeited his seat.

9. (1) The chairman shall preside at every meeting of the board at which he is present. If the chairman is absent from a meeting the members present shall elect a member to act as chairman at that meeting.

Chairman.

(2) The chairman, or the person acting as chairman, shall have a deliberative vote, and in the event of equality of votes, a casting vote also.

10. (1) Any five members of the board shall form a quorum for the transaction of business, and no business shall be transacted at a meeting unless a quorum is present.

Quorum and
validity of
acts.

(2) Every matter coming before the board shall be decided by a majority of the votes of the members present and voting at a duly convened meeting of the board.

(3) Subject to subsections (1) and (2) of this section an act or proceeding of the board shall not be invalid on the ground of a vacancy in the office of a member.

11. (1) The first meeting of the board shall be convened by the chairman, and thereafter meetings shall be held at times and places determined by the board : Provided that the chairman may, on reasonable notice to the members, call a meeting at any time.

Meetings.

(2) Subject to this Act, the business of the board shall be conducted in such manner as the board determines.

12. (1) The board may, by notice in the *Gazette* from time to time require all or any of the persons who are registered or licensed under this Act to pay to the board contributions towards the costs of the administration of this Act and towards carrying out the powers and duties of the board under this Act.

Levy to meet
expenses.

(2) The notice shall specify the persons or classes of persons who are required to pay contributions, the amount of the contributions or the manner in which they are computed and the time on or before which they must be paid.

(3) The board shall, by post or personal service, give to every person liable to contribute under this section a written notice of the amount payable by him and the time when that amount is to be paid, and if the board decides that contributions may be paid by instalments, the notice shall also state the amount of the instalments and the times when they are to be paid. The contribution shall be payable in accordance with the notice.

(4) If any contribution or instalment thereof is not paid in full as and when it becomes payable, the board or any person authorized by the board may recover the amount owing, as a debt, by action in any court of competent jurisdiction.

Remuneration.

13. (1) The members of the board shall be entitled to be paid such remuneration and expenses as are approved by the Governor.

(2) Such remuneration and expenses shall be paid out of the funds of the board.

Staff of board.

14. The board may appoint such officers and employees as it requires to assist it in the administration of this Act.

Accounts and audit.

15. (1) The board shall keep proper accounts of all its financial transactions and shall prepare a balance-sheet and a statement of its receipts and payments at least once a year.

(2) The board shall at all times keep a copy of its last balance-sheet and statement of receipts and payments affixed in a conspicuous place in that part of its office which is open to the public.

(3) The board shall cause its accounts to be properly and regularly audited by an auditor holding an auditor's licence under the Companies Act, 1934-1939.

General powers of board.

16. The board may for the purposes of carrying out the duties and functions imposed on it by the other provisions of this Act—

- (a) buy or take a lease of any premises ;
- (b) buy or hire any personal property ;
- (c) sell any property no longer required by it ;

- (d) delegate any of its functions and revoke any such delegation :
- (e) do any acts or things and enter into and carry out any transactions, which it is necessary or convenient to do, enter into, or carry out for giving effect to this Act, or which are incidental to the exercise of any power or function of the board.

17. If a member of the board becomes personally liable to pay any sum of money in consequence of anything done by him or the board in good faith in the administration or intended administration of this Act he shall be entitled to be repaid that sum from the funds of the board.

Indemnity to members of the board.

Registration of Growers.

18. (1) A person shall not grow potatoes for sale, or sell potatoes grown by him unless he is registered by the board as a grower.

Registration of growers.

(2) A person who—

- (a) applies for registration on the prescribed form and furnishes the board with the information indicated in the form ; and
- (b) satisfies the board that in the period for which registration is required he is growing or will grow potatoes for sale, either on land owned or occupied by him, or under a share-farming agreement ;

shall be entitled to registration as a grower.

(3) The board shall issue a certificate of registration to every person whom it registers as a grower.

(4) The registration of a grower shall remain in operation for the period specified in the certificate not exceeding eighteen months.

(5) No fee shall be payable for registration as a grower.

Licensing of Merchants.

19. (1) A person shall not carry on business as a wholesale potato merchant unless he is licensed by the board as a potato merchant.

Licensing of merchants.

(2) A person who—

- (a) applies for registration on the prescribed form and furnishes the board with the information indicated in that form ; and
- (b) pays the prescribed fee (if any) ; and

- (c) satisfies the board that in the period for which a licence is required he will carry on business as a potato merchant ;

shall be entitled to be licensed as a potato merchant: Provided that the board, with the consent of the Minister, may refuse an application for registration if—

- (i.) the applicant was not on the first day of October, nineteen hundred and forty-eight, a registered wholesale potato merchant under the National Security (Potatoes) Regulations: and
- (ii.) the board is satisfied that in the public interest it is undesirable that the applicant should be registered as a potato merchant.

(3) Every licence shall unless surrendered or otherwise terminated, remain in operation for the term mentioned therein.

(4) A licence shall not be transferable, and shall cease to be in force upon the death of the holder, but the personal representatives of a deceased holder of a licence shall be entitled to a licence on compliance with paragraphs (a), (b) and (c) of subsection (2) of this section.

Control of Sale, Delivery and Price of Potatoes.

Control of sale,
delivery and
price of
potatoes.

20. (1) The board may make orders providing for all or any of the following matters :—

- (a) fixing the quantity of potatoes or the proportion of his crop of potatoes which a grower may sell or deliver at any time or place specified in the order ;
- (b) otherwise regulating and controlling the sale and delivery of potatoes ;
- (c) fixing maximum and minimum prices at which potatoes may be sold ;
- (d) fixing the terms and conditions on which potatoes may be sold ;
- (e) prescribing any matter necessary or convenient to be prescribed for ensuring compliance with or enforcing any order made under this section.

(2) The prices fixed for potatoes by an order under this section may vary according to the place, time or conditions of sale, or the grade, quality or quantity of the potatoes, or according to any circumstances, rule or formula prescribed in the order.

(3) An order made under this section—

- (a) may be of general application throughout the State or any part thereof, or may apply only to persons named therein ;

- (b) if of general application throughout the State or any part thereof, shall be published in the *Gazette* and advertised in a daily newspaper ;
- (c) if applicable only to persons named therein shall be binding only on persons on whom copies of the order have been served personally or by post.
- (4) An order made under this section may be proved in any proceedings by production of a document purporting to be a copy of the order and purporting to be signed by the chairman or secretary of the board.
- (5) An order made under this section relating to the price of potatoes, shall not fix prices exceeding those fixed for potatoes of the same class, grade or quality by any order made under the Prices Act, 1948.

Miscellaneous Provisions.

21. (1) Any person who contravenes or fails to comply with any provision of this Act or of any order made under this Act shall be guilty of an offence.

Offences and penalties.

(2) Any person guilty of any offence against this Act shall be liable to a fine not exceeding one hundred pounds.

(3) Proceedings for offences against this Act shall be heard and determined summarily.

22. Except where this Act otherwise provides, any notice required by this Act to be given to any person, may be served personally or by post.

Notices.

23. (1) A person dissatisfied with a decision or action or proposed decision or action of the board, may in writing request the Minister to review that decision, or action, or proposed decision or action.

Appeals against decision of board.

(2) The Minister—

(a) shall give the person making the request, and the board, an opportunity to submit to him any information or arguments relevant to the matter of the request ; and

(b) may give the board a direction relating to the matter of the request.

(3) Any such decision shall be binding on the board.

24. The Governor on the recommendation of the board may make regulations 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

Regulations

giving effect to this Act, and in particular, but without limiting the generality of the foregoing powers—

- (a) for requiring any persons to furnish the board with information relating to potatoes :
- (b) for enabling the board or any person authorized by it to inspect any potatoes or records or accounts relating to potatoes or any premises on which potatoes are produced, stored, graded, packed, or otherwise treated :
- (c) respecting elections and polls held under this Act :
- (d) for prescribing penalties, not exceeding in any case a fine of fifty pounds, recoverable summarily for breach of the regulations.

Polls on
duration
of Act.

25. (1) In the year nineteen hundred and fifty-one, and in any third year thereafter, not less than one hundred growers registered under this Act may present a petition to the Minister asking that a poll shall be taken to decide whether this Act shall continue in operation.

(2) If such a petition is received a poll shall be held not later than the thirty-first of July in the year following the year in which the petition is presented, on the question whether this Act shall continue in operation after the thirtieth day of September following the holding of the poll.

(3) The Returning Officer for the State shall conduct every poll required to be held under this section.

(4) Subject to the regulations, every registered grower shall be entitled to one vote at the poll.

(5) The poll shall be conducted by postal voting.

(6) If a majority of the total number of registered growers who vote at the poll, vote against the continuance of this Act, then this Act shall have no operation as regards any potatoes sold on or after the first day of October following the holding of the poll.

(7) Subject to this Act and the regulations, the poll shall be conducted in such manner as the Returning Officer for the State deems proper.

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

C. W. M. NORRIE, Governor.