



ANNO VICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1973

No. 40 of 1973

An Act to amend the Potato Marketing Act, 1948-1970.

[Assented to 25th October, 1973]

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 "Potato Marketing Act Amendment Act, 1973".

(2) The Potato Marketing Act, 1948-1970, as amended by this Act, may be cited as the "Potato Marketing Act, 1948-1973".

(3) The Potato Marketing Act, 1948-1970, is hereinafter referred to as "the principal Act".

**Repeal of
s. 21 of
principal Act
and enactment
of sections in
its place—**

2. Section 21 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

**Offences and
penalties.**

21. (1) A 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 against this Act and shall on conviction be liable—

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

and

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

and in the case of a person convicted of the offence of selling, purchasing, delivering or taking delivery of potatoes in contravention of an order made under this Act, to an additional penalty of an amount equal to the value of the potatoes in relation to the sale, purchase or delivery of which he was so convicted ascertained in accordance with the provisions of subsection (2) of this section.

(2) For the purposes of ascertaining the additional penalty referred to in subsection (1) of this section, the value of the potatoes shall be calculated in accordance with the wholesale price (or, if the case requires, the average wholesale price) fixed by the order made under this Act that was in force on the day on which the offence was committed.

(3) All proceedings for offences against this Act shall be disposed of summarily.

21a. On the hearing of any complaint or summons containing an allegation that a person purchased or took delivery of potatoes contrary to the provisions of an order made under this Act, evidence—

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

and

(b) that the person charged on being requested by an Inspector appointed by the Board to produce to that Inspector either a sales docket evidencing that the potatoes were purchased by that person or a delivery note evidencing that the potatoes were 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 Board or by a person licensed or authorized under this Act to sell potatoes,

shall be *prima facie* evidence of that allegation.

Certain
contracts and
agreements
void.

21b. Any contract, agreement, arrangement or understanding whether or not in writing and whether express or implied the purpose or effect of which is directly or indirectly to defeat, evade or prevent the application of this Act to any transaction to which this Act would, but for that contract, agreement, arrangement or understanding, otherwise apply shall notwithstanding any Act or law to the contrary, be void and of no effect.

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

M. L. OLIPHANT, Governor