



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 88 of 1976

An Act to amend the Poultry Processing Act, 1969.

[Assented to 16th December, 1976]

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 "Poultry Processing Act Amendment Act, 1976".

(2) The Poultry Processing Act, 1969, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Poultry Meat Industry Act, 1969-1976".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of
long title of
principal Act.

3. The long title to the principal Act is amended by striking out the passage "the processing of poultry intended for sale" and inserting in lieu thereof the passage "the poultry meat industry; and for other purposes".

Repeal of s. 3
of principal
Act and
enactment of
section in its
place—
Arrangement
of Act.

4. Section 3 of the principal Act is repealed and the following section is enacted and inserted in its place:—

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—ADMINISTRATION

DIVISION 1—INSPECTION

DIVISION 2—REGISTRATION

DIVISION 3—POULTRY MEAT INDUSTRY COMMITTEE

PART III—OPERATION OF PLANTS AND FARMS

PART IIIA—APPEALS

PART IV—MISCELLANEOUS.

5. Section 4 of the principal Act is amended—

Amendment of
principal Act,
s. 4—
Definitions.

- (a) by inserting immediately before the definition of “base weight” the following definition:—

“approved farm” means a farm that is for the time being approved by the Committee under Part III of this Act: ;

- (b) by inserting immediately after the definition of “carcass” the following definitions:—

“the chairman” in relation to the Committee includes a deputy of the chairman while duly acting in the place of the chairman:

“chicken” means a bird of the species *Gallus gallus* that is not more than sixteen weeks old:

“the Committee” means the Poultry Meat Industry Committee established under Part II of this Act: ;

- (c) by inserting immediately after the definition of “end weight” the following definition:—

“farm” means any place or premises used for raising chickens for processing at a plant: ;

and

- (d) by striking out the definition of “operator” and inserting in lieu thereof the following definition:—

“operator” means—

(a) in relation to a plant, the person who conducts or has control of the plant;

and

(b) in relation to a farm, the person who conducts or has control of the farm but does not include a person who is also the operator of a plant: .

6. Section 5 of the principal Act is amended—

Amendment of
principal Act,
s. 5—
Exemption
from Act or
specified
provisions
thereof.

- (a) by striking out paragraphs (a), (b) and (c) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(a) any operator or class of operators;

(b) any plant or class of plants;

(c) any farm or class of farms;

or

(d) any particular method of processing, ;

and

- (b) by striking out from subsection (2) the passage “the operator, plant or method of processing” and inserting in lieu thereof the passage “any operator or operator of a class, any plant or plant of a class, any farm or farm of a class or any method of processing”.

Enactment of
s. 11a and
Division 3 of
principal Act—

7. The following section and Division (including the heading thereto) are enacted and inserted in the principal Act immediately after section 11 thereof:—

Conditions to
registration.

11a. (1) The Minister may, on registering any plant pursuant to section 11 of this Act, attach to the registration such conditions as he considers appropriate.

(2) The Minister may, by notice in writing to the operator of a registered plant, vary or revoke a condition attached to the registration of the plant or attach a further condition.

(3) The operator of a registered plant shall not contravene or fail to comply with a condition attached pursuant to this section to the registration of the plant.

Penalty: Five hundred dollars.

DIVISION 3—POULTRY MEAT INDUSTRY COMMITTEE

Declared
operators, etc.

11aa. (1) For the purposes of this Division, the Minister may by notice declare the operator of any registered plant or plants to be a “declared operator” and the Minister may by subsequent notice revoke any such declaration.

(2) The Minister shall not make a declaration under subsection (1) of this section in relation to an operator unless he is satisfied:—

(a) that the registered plant or plants conducted by or under the control of that operator have processed for sale not less than fifteen per cent of the chickens processed in the State during the period of twelve months immediately preceding the day on which that declaration is made;

and

(b) that the registered plant or plants conducted by or under the control of that operator accept for processing all or the greater part of the chickens raised on three or more farms.

(3) For the purposes of this Division, the Minister may, by notice, declare a farm on which all or the greater part of the chickens raised are supplied to a declared operator to be a specified farm in relation to that operator.

(4) The Minister may by notice in writing require—

(a) every declared operator to nominate two persons and from the two persons so nominated the Minister shall appoint one to be a member of the Committee and one to be a deputy of that member;

(b) the operators of the farms specified in relation to each declared operator jointly to nominate two persons and from the two persons so nominated the Minister shall appoint one to be a member of the Committee and one to be a deputy of that member.

(5) Where within the period specified in the notice under subsection (4) of this section (not being less than twenty-eight days) the required nominations are not received the Minister may appoint such suitable persons as he sees fit to be a member of the Committee and deputy of the member and any such appointment shall be a valid and effective appointment.

(6) The Minister may by notice in writing appoint—

(a) one person, who in the opinion of the Minister, can represent the interest of operators of plants other than declared operators, to be a member of the Committee, and one person to be a deputy of that member;

and

(b) one person, who in the opinion of the Minister, can represent the interests of operators of farms other than the operators of farms which are specified in relation to a declared operator, to be a member of the Committee and one person to be a deputy of that member.

11b. (1) There shall be a committee entitled the “Poultry Meat Industry Committee”. Establishment of Committee.

(2) The Committee shall consist of the following members appointed by the Minister:—

(a) an officer of the Public Service of the State (who shall be chairman of the Committee);

and

(b) such number of members, and deputies of members, as are appointed by the Minister under subsections (4), (5) or (6) of section 11aa of this Act.

11c. (1) A member of the Committee shall be appointed for a term of office of three years and subject to this Part shall be eligible for re-appointment. Term of office, etc.

(2) A deputy of a member while acting in the absence of that member shall be deemed to be a member of the Committee and shall have all the powers and duties of that member.

(3) The Minister may remove a member of the Committee from office—

(a) for mental or physical incapacity;

(b) for neglect of duty;

or

(c) for dishonourable conduct.

(4) The office of a member of the Committee shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Minister;

(d) he ceases to have the qualification, if any, specified in the instrument of his appointment;

or

(e) he is removed from office by the Minister pursuant to subsection (3) of this section.

(5) Upon the office of a member of the Committee becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

Allowances
and expenses.

11d. The members of the Committee shall be entitled to receive such allowances and expenses, if any, as may be determined by the Minister.

Quorum, etc.

11e. (1) A quorum of the Committee shall be constituted of the chairman of the Committee and a number of members of the Committee equal to one more than the number obtained by dividing the number of persons who are for the time being members of the Committee by two and ignoring any fraction resulting from the division.

(2) No business shall be transacted at a meeting of the Committee unless a quorum is present.

(3) The chairman of the Committee shall preside at a meeting of the Committee.

(4) A decision carried by a majority of the votes of the members of the Committee present at a meeting of the Committee shall be a decision of the Committee.

(5) Each member of the Committee shall be entitled to one vote on a matter arising for determination by the Committee.

(6) The Committee shall cause proper minutes to be kept of its proceedings at meetings.

(7) Subject to this Act, the business of the Committee shall be conducted in a manner determined by the Committee.

(8) The Committee may delegate to the chairman any of its powers or functions under this Act.

(9) Any delegation by the Committee shall be revocable at will and shall not derogate from the power of the Committee to act itself in any matter.

Validity of
acts of
Committee and
immunity of
its members.

11f. (1) An act or decision of the Committee shall not be invalid by reason only of a vacancy in its membership or a defect in the appointment of a member of the Committee.

(2) No personal liability shall attach to a member of the Committee for an act or omission by him, or by the Committee, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties, under this Act.

11g. The functions of the Committee are as follows:—

Functions of
Committee.

- (a) to grant approvals under Part III of this Act;
 - (b) to use its best endeavours to resolve disputes between operators of plants and operators of farms;
- and
- (c) to report to the Minister on any matter relating to the poultry meat industry referred to it by the Minister or on any such matter on which it considers it should report to the Minister.

8. The heading to Part III of the principal Act is repealed and the following heading and sections are enacted and inserted in its place:—

Repeal of
heading to
Part III of
principal Act
and enactment
of heading and
ss. 11h to 11i
in its place.

PART III

OPERATION OF PLANTS AND FARMS

11h. On and after the expiration of the period of three months next following the commencement of the Poultry Processing Act Amendment Act, 1976, the operator of any plant shall not suffer or permit processing of chickens to be carried out at the plant unless the chickens—

Processing of
chickens
raised without
approval.

- (a) were supplied to him by the operator of an approved farm pursuant to an agreement in writing approved by the Committee;
 - (b) were raised at a farm operated by him with the approval of the Committee;
- or
- (c) were supplied to him by the operator of a plant to whom they were supplied, or by whom they were raised, in a manner referred to in paragraph (a) or (b) of this section.

Penalty: Two thousand dollars.

11i. (1) An application may be made to the Committee—

Approval of
farms, etc.

- (a) by the operator or proposed operator of a farm for approval of the farm or proposed farm;
- or
- (b) by the operator of any plant for approval to operate a farm or proposed farm.

(2) The application referred to in subsection (1) of this section must contain particulars in the prescribed form and be accompanied by the prescribed fee.

(3) Where, before the expiration of the period of three months next following the commencement of the Poultry Processing Act Amendment Act, 1976, application is made—

- (a) under paragraph (a) of subsection (1) of this section for approval of a farm that was used as such during the period of three months expiring on the first day of September, 1976;

or

- (b) under paragraph (b) of subsection (1) of this section by the operator of any plant for approval to operate a farm that was used as such by him during the period of three months expiring on the first day of September, 1976,

the Committee shall grant the approval.

(4) Where application is made under paragraph (a) or paragraph (b) of subsection (1) of this section for an approval, not being an application for approval referred to in subsection (3) of this section, the Committee may grant the approval if it is satisfied that there is a demand for the supply of chickens for processing that cannot reasonably be met by the operators of approved farms using existing facilities.

(5) The Committee may, on granting approval under this section in respect of a proposed farm, stipulate that the approval shall have effect upon the proposed farm being established in accordance with conditions specified in the approval within a period specified in the approval.

(6) The Committee shall, on granting approval under this section, as evidence of the approval, cause a certificate of approval, in the prescribed form, to be issued to the person granted the approval.

(7) The Committee may, on granting approval referred to in paragraph (b) of subsection (1) of this section to the operator of any plant to operate a farm, restrict the approval to the raising annually of not more than a number of chickens specified in the approval.

(8) The Committee may from time to time vary a restriction referred to in subsection (7) of this section in a manner that reasonably reflects variations in the demand for the supply of chickens for processing.

Approval of agreements between operators of plants and operators of farms.

11j. (1) An application may be made to the Committee by the operator of a registered plant and the operator of an approved farm for approval of any agreement in writing for the supply of chickens.

(2) The applicants referred to in subsection (1) of this section must furnish the Committee with a copy of the agreement and such relevant information as the Committee requires.

(3) Where application is made under this section, the Committee shall approve the agreement if the Committee is satisfied that the agreement—

- (a) promotes reasonable continuity in the relation between the operator of the plant and the operator of the farm;
- (b) establishes satisfactory criteria for determining the efficiency of the operator of the farm; -
- (c) provides a reasonable basis for determination and periodic adjustment of the fee to be paid to the operator of the farm for the supply of chickens;
- (d) provides for a right in the operator of the farm, if he is efficient in terms of the criteria agreed upon, to participate in meeting any expansion of the requirements of the operator of the plant for the supply of chickens;

and

- (e) provides for any other matters (whether or not of the same kind as those referred to in the foregoing paragraphs of this subsection) relating to the raising and supply of chickens for processing for which the Committee considers provision should be made.

Amendment of principal Act, s. 13—
Suspension of registration.

9. Section 13 of the principal Act is amended by striking out from subsection (1) the passage “that is a contravention of section 12 of” and inserting in lieu thereof the word “against”.

10. The following Part, heading and sections are enacted and inserted in the principal Act immediately after section 15 thereof:—

Enactment of
Part IIIA of
principal Act.

PART IIIA

APPEALS

15a. In this Part—

The Tribunal.

“the Tribunal” means the Poultry Farmer Licensing Review Tribunal constituted under the Egg Industry Stabilization Act, 1973-1974.

15b. (1) A person aggrieved by a decision of the Committee under this Act may within the prescribed time and in the prescribed manner appeal to the Tribunal.

Appeals.

(2) On appeal under subsection (1) of this section the Tribunal may—

(a) dismiss the appeal and uphold the decision;

(b) uphold the appeal and quash the decision or substitute for that decision any other decision that in the opinion of the Tribunal the Committee was competent to make.

15c. The procedure for the conduct of business before the Tribunal shall, subject to this Act, be as determined by the Tribunal.

Procedure.

11. Section 17 of the principal Act is amended—

Amendment of
principal Act,
s. 17—
Evidence.

(a) by inserting in paragraph (a) immediately after the passage “registered plant” the passage “or a particular condition was or was not attached to the registration of a particular plant”;

and

(b) by inserting immediately after paragraph (a) the following paragraph:—

(a1) a certificate under the hand of the chairman of the Committee stating that on a day specified or throughout a period specified therein a particular farm was or was not an approved farm or a particular operator of a plant did or did not have approval to operate a farm or did or did not have approval to raise more than a number of chickens specified therein;

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

D. NICHOLLS, Governor