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EGG INDUSTRY STABILIZATION.

No. 91 of 1973.



AN ACT to facilitate the creation of stable conditions in the egg producing industry. [13 February 1974.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Egg Industry Stabilization Act* Short title. 1973.

Interpretation.

2 In this Act, unless the contrary intention appears—

- “ base period ” means the period of twelve months ending on the thirtieth day of September 1973;
- “ base quota ” means the base quota fixed for a licence under Division III of Part II;
- “ Board ” means the Egg Marketing Board;
- “ Commonwealth levy ” means the levy imposed by the *Poultry Industry Levy Act 1965-1966* of the Commonwealth;
- “ Commonwealth levy return ” means the notice in writing required to be submitted under regulation four of the Commonwealth regulations;
- “ Commonwealth regulations ” means the *Poultry Industry Levy Collection Regulations* made under the *Poultry Industry Levy Collection Act 1965-1966* of the Commonwealth;
- “ first season ” means the period of twelve months commencing on such day as the Minister by order declares for the purpose;
- “ fowl ” means a domesticated fowl of the genus *Gallus*;
- “ hen ” means a female fowl that is not less than six months old;
- “ hen quota ” means the hen quota fixed for a licence under Division V of Part II;
- “ inspector ” means an inspector appointed under section twenty-seven;
- “ licence ” means a licence granted under Division II of Part II;
- “ Review Committee ” means the Hen Quota Review Committee established under section twenty-one;
- “ season ” means the first season and each consecutive period of twelve months following thereafter.

PART II.

THE SCHEME FOR STABILIZATION.

Division I—Prohibition on keeping hens without licence.

3—(1) Subject to this Division, no person, at any time after the commencement of the first season—

Prohibition on keeping hens of certain kinds without licence.

- (a) shall keep any hens to which this section applies, unless he is the holder of a licence authorizing him to keep those hens; or
- (b) shall cause or allow to be kept on any premises any hens to which this section applies, unless the person keeping those hens is the holder of a licence authorizing him so to do.

Penalty: Five hundred dollars with a daily penalty of one hundred dollars.

(2) This section applies to the following classes of hens, namely:—

- (a) White leghorns;
- (b) Australorps, New Hampshires, Rhode Island reds, and langshans;
- (c) Crosses between white leghorns and any breed of hen mentioned in paragraph (b) of this subsection; and
- (d) Any class of hens declared by order of the Minister to be a class of hens to which this Act applies.

(3) No order shall be made for the purposes of paragraph (d) of subsection (2) of this section to take effect less than three months after it is made.

4—(1) Section three does not apply to the keeping of hens that are not subject to the Commonwealth levy.

Exemption for hens not subject to Commonwealth levy

(2) In respect of any period commencing on a day on which the Commonwealth levy is imposed and ending on the day on which it is next imposed, those hens on which the levy was imposed on the former day shall for the purposes of subsection (1) of this section be regarded as the only hens that were subject to the Commonwealth levy during that period.

5 Section three does not apply to hens kept for the purpose of producing fertile eggs for hatching.

Exemption for hens kept for breeding purposes.

Exemption for
certain
institutions, &c.

6—(1) The Minister may, by order, exempt an institution or organization carried on for any educational, charitable, or public purpose from the operation of section three.

(2) An order under this section may apply to a specified institution or organization or an institution or organization of a kind or of a class specified in or determined in accordance with the provisions of the order.

(3) Where by an order under this section an institution or organization is exempt from the operation of section three that section does not apply to the keeping of hens by or on behalf of that institution or organization.

Division II—Licences to keep hens.

Grant and effect
of licences.

7—(1) In accordance with this Part, licences may be granted by the Board for the purposes of this Act.

(2) A licence may be held by one person only or two or more persons jointly.

(3) A licence authorizes the holder thereof to keep hens to which section three applies to a number not exceeding the hen quota for the time being fixed for that licence.

Initial licences.

8—(1) Where in relation to the hens kept on any premises at the commencement of this Act, the following conditions have been complied with, namely:—

- (a) During the base period at least one Commonwealth levy return has been submitted in respect of hens kept on those premises;
- (b) During that period sums became due by way of Commonwealth levy in respect of the hens kept on those premises and all the sums so falling due have been paid; and
- (c) If, at the commencement of this Act, there is in force, in respect of the hens kept on those premises, an exemption under section twenty-two of the *Marketing of Primary Products Act 1945*, as it has effect for the purposes of the *Egg Marketing Act 1957*, all the terms and conditions on which that exemption was granted have been complied with,

the Board shall, on an application under this section, grant a licence to the person keeping hens on those premises, and such a licence is in this Act referred to as an "initial licence".

(2) An application for an initial licence shall be made before such date as the Minister may by order appoint or at such later time as the Minister may in the special circumstances of any particular case approve.

9—(1) Where the Board is satisfied that the number of hens to which section three applies that are being kept in the State under the authority of licences is substantially less than the State Hen Quota for the time being it may, with the approval of the Minister, grant a licence to any person who satisfies it that he intends to carry on a business of producing eggs for human consumption and is capable of carrying on that business successfully.

Licences, other than initial licences.

(2) Where, on an application made by a person for a licence under this section, the Board has failed or refused to grant him a licence, he may apply to the Minister, and the Minister, if he is of the opinion that a licence should be granted to him under this section, may direct the Board to grant the licence; and the Board shall comply with the direction.

10—(1) On the surrender of a licence by the holder thereof the Board shall cancel the licence.

Surrender, transfer, &c., of licences.

(2) Where the hens kept in pursuance of a licence are kept on any premises the Board, on being satisfied that the holder will cease to keep hens on those premises but hens to which section three applies will continue to be kept on those premises by some other person the Board shall, on the application of the holder of that licence, transfer the licence to that other person.

(3) By agreement with the holder of a licence and any other person or persons, the Board may cancel that licence and grant in place thereof a licence or licences to that other person or those other persons.

(4) Where, on the application of the holder of a licence, the Minister is satisfied that no agreement can be reached for the purposes of subsection (3) of this section, he may, if he is of

opinion that the licence should be cancelled and another licence or other licences be granted in place thereof, direct that that licence or those licences may be granted and specify the terms on which they may be so granted and, if the person making the application agrees to those terms, the Board shall cancel his licence and grant that other licence or those other licences accordingly.

(5) An agreement under subsection (3) of this section or a direction of the Minister under subsection (4) of this section may specify the base quota or base quotas to be fixed for the licence or licences to be granted in place of the one surrendered; but no base quota or base quotas so specified shall be such as to increase the aggregate of all base quotas to a number greater than the State Hen Quota for the time being.

Death of
holder of
licence.

11—(1) On the death of the holder of a licence his legal personal representatives become the holder of that licence.

(2) Where a person who is the holder of a licence jointly with another person dies his legal personal representatives become the holder of the licence jointly with those other persons.

Annual licence
fees.

12—(1) The holder of a licence shall in respect of each season in which it is in force pay to the Board such fee as may be prescribed in respect of that licence or, if no such fee is prescribed, such fee as the Board may with the approval of the Minister determine in respect of that licence.

(2) A licence shall not be granted unless there is paid to the Board the fee payable under this section in respect of the first season in which it is in force.

(3) Except as provided in subsection (2) of this section a fee payable under this section in respect of a season becomes payable at the commencement of the season and may be recovered by the Board from the holder of the licence or, if the licence has been cancelled, the last holder thereof, as a debt due to the Board.

Cancellation
of licences.

13—(1) The Board may cancel a licence if—

- (a) a fee has become payable in respect of the licence under section twelve and has not been paid;
- (b) the number of hens to which section three applies that are kept by the holder of the licence exceeds the hen quota for the licence;
- (c) the holder or one of the holders of the licence has been convicted of an offence against this Act; or

(d) the licence has been obtained as a result of a misrepresentation, or the base quota for the licence has been incorrectly determined as a result of a misrepresentation.

(2) The Board shall not cancel a licence under this section unless at least thirty days before so doing it has served notice in writing on the holder of the licence stating its intention to do so and specifying the grounds on which it is intended to cancel the licence.

(3) Where a licence is cancelled under this section the holder thereof may, within the prescribed time and in the prescribed manner, appeal to the Minister and the Minister after giving him such opportunity as he considers reasonable to make representations in relation to the matter may either dismiss the appeal or quash the cancellation of the licence.

(4) The cancellation of a licence under this section is of no effect, if an appeal against the cancellation is brought under this section, until the appeal is finally disposed of, or, if an appeal is not so brought, until the time limited for the bringing of the appeal has expired.

Division III—Base quotas for licences.

14 For each licence there shall be a base quota fixed in accordance with this Division. Fixing of base quotas.

15—(1) Subject to this section, the base quota for an initial licence shall be fixed by the Board at the highest return figure specified in the Commonwealth levy returns submitted during the base period in respect of hens kept on premises to which the licence relates. Base quotas for initial licences.

(2) For the purposes of subsection (1) of this section, the return figure specified in a Commonwealth levy return shall be taken to be the number of hens specified in the return pursuant to paragraph (a) of regulation three of the Commonwealth regulations reduced by the number so specified pursuant to sub-paragraph (i) of paragraph (b) of that regulation.

(3) Where a base quota for a licence has been fixed under this section the holder of the licence may apply to the Review Committee for a review of the quota.

16—(1) The base quota for a licence granted under subsection (3) or subsection (4) of section ten shall be fixed by the Board at the number specified in the agreement or the direction of the Minister pursuant to which the licence was granted. Base quotas for licences granted on transfer or re-arrangement.

(2) Notwithstanding anything in subsection (1) of this section the aggregate of the base quotas for licences granted in consequence of the cancellation of a licence shall not exceed the base quota for that licence.

Base quotas for
other licences.

17—(1) The base quota for a licence, other than a licence to which section fifteen or section sixteen applies, shall be fixed by the Board in accordance with such directions as may be given to it by the Minister, either generally or in a particular case.

(2) No base quota shall be fixed under this section that would have the effect of increasing the aggregate of all the base quotas to a number greater than the State Hen Quota for the time being.

Increase of
base quotas.

18—(1) On the application of the holder of a licence the Board may increase the base quota for that licence.

(2) The Minister may give directions to the Board as to the manner in which its powers under this section are to be exercised, either generally or in a particular case, and the Board shall comply with those directions.

(3) No base quota shall be increased under this section so as to have the effect of increasing the aggregate of all the base quotas to a number greater than the State Hen Quota for the time being.

(4) Where the State Hen Quota determined for any season under section twenty-four is greater than that for the immediately preceding season the Board shall forthwith notify in writing the holder of each licence of the determination, specifying the number by which the State Hen Quota has been increased and advising him that he may apply for an increase in the base quota for the licence held by him.

Reduction and
re-allocation
of base quotas.

19—(1) By agreement with the holder of a licence, the Board may reduce the base quota for that licence.

(2) Where the average number of hens to which section three applies kept during a season by the holder of a licence is less than the base quota for that licence the Board may, at any time during the first three months of the next ensuing season, reduce the base quota to a figure not less than that average number.

(3) For the purposes of subsection (2) of this section the average number of hens to which section three applies kept by any person during a season shall be deemed to be the average of the

return figures specified in the Commonwealth levy returns submitted during that period in respect of those hens; and subsection (2) of section fifteen applies in relation to this subsection as it applies in relation to subsection (1) of that section.

(4) The holder of a licence who is aggrieved by the reduction of the base quota for the licence under subsection (2) of this section may apply to the Review Committee for a review of the base quota.

(5) Where, during any season, the base quotas for any licences are reduced under this section, the Board may during that season increase the base quota of any other licence by agreement of the holder thereof; but the aggregate of the numbers by which base quotas are increased under this subsection during any season shall not exceed the aggregate of the numbers by which quotas were reduced under this section during that season, or such lesser number as the Minister may determine.

20—(1) Where the Board fixes a base quota for any licence, or increases or reduces the base quota for a licence, it shall notify the holder of the licence of the base quota as so fixed, or as so increased or reduced, as the case may be. Notification of base quotas.

(2) A certificate in writing purporting to be under the hand of the secretary of the Board stating that on such date as is specified in the certificate a specified number was the base quota for a licence is sufficient evidence of the fact.

Division IV—Review of base quotas in certain cases.

21—(1) The Minister shall, for the purposes of this Division, appoint a committee to be known as the Hen Quota Review Committee. Hen Quota Review Committee.

(2) The Review Committee shall consist of a chairman appointed by the Minister and two other members of whom—

- (a) one shall be an officer of the Department of Agriculture; and
- (b) one shall be a person appointed as representing egg producers.

(3) The members of the Review Committee are not as such, subject to the *Public Service Act 1973*, and a member of that committee may hold office as such in conjunction with his office in the Public Service.

(4) No person who is a member of the Board shall be a member of the Review Committee.

(5) The chairman of the Review Committee, or in his absence or if there is no chairman, such one of the other members present as they may choose, shall preside at each meeting of the committee.

(6) The quorum at any meeting of the Review Committee shall be two.

(7) A decision of a majority of the members present at a meeting of the Review Committee shall be the decision of the committee; and if there is an equality of votes on any matter before the committee that matter stands adjourned to the next meeting of the committee.

(8) Subject to this Act the Review Committee shall regulate its own proceedings.

(9) The Minister may pay to a member of the Review Committee who is not an officer in the Public Service such remuneration as the Governor may approve, and may pay to any member of the committee such travelling or other allowances as may be so approved.

(10) The Minister may appoint a secretary of the Review Committee and may make arrangements for the provision of such staff and accommodation as the committee requires.

(11) With the approval of the Public Service Board, a person who holds office in the Public Service may be secretary of the Review Committee or serve it in any other capacity.

Manner, &c.,
of applications
to Review
Committee.

22—(1) Where an application may be made under this Act by the holder of a licence for a review of the base quota fixed for a licence that application shall, subject to subsection (2) of this section, be made within twenty-eight days of his being notified under section twenty of the number at which that base quota has been fixed, or to which it has been reduced, as the case may be.

(2) Notwithstanding anything in subsection (1) of this section the Review Committee may hear and determine such an application as is referred to in that subsection that is not made within the time specified in that subsection if the Review Committee is satisfied that by circumstances beyond his control the applicant was prevented from complying with that subsection.

(3) An application referred to in subsection (1) of this section shall be in such form as the Minister approves, and any form so approved may require information therein to be verified by statutory declaration.

23—(1) On an application under this Act in respect of the base quota for an initial licence, or the reduction of a base quota for a licence, the Review Committee, if it is satisfied that, having regard to the special circumstances of the case, that base quota or that base quota as so reduced, as the case may be, should be increased, it may direct the Board to fix the base quota at such number as it considers fair and reasonable in the circumstances.

Determination
of applications
for review of
quotas.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section the following circumstances shall be deemed to be special circumstances that may justify the increase of a base quota:—

- (a) That the operation of the relevant business during the relevant period was adversely affected by fire or localised adverse seasonal conditions;
- (b) That, during the relevant period, any hens kept for the purpose of the relevant business were affected by disease; and
- (c) That the operation of the relevant business was, during the relevant period, adversely affected by the illness of the person carrying it on or by his absence, or that of his son, on service with the armed forces of the Commonwealth.

(3) Where on an application under subsection (3) of section fifteen the Review Committee is satisfied that the base quota was incorrectly calculated under that section it shall determine the number at which it should have been calculated and, subject to the exercise of its powers under the foregoing provisions of this section, direct that the base quota be fixed at that number.

(4) The Board shall comply with any directions given to it by the Review Committee under this section.

(5) In this section—

(a) in relation to an application made under section fifteen—
“relevant business” means the business carried on on the premises in respect of which the licence was granted; and

“relevant period” means the base period; and

(b) in relation to an application made under section nineteen—

“relevant business” means the business involving the keeping of hens authorized by the licence; and

“relevant period” means the season immediately preceding that in which the base quota was reduced.

Division V—State Hen Quota and individual hen quotas.

State Hen
Quota.

24—(1) For the purposes of this Act the Minister shall, by notice in the *Gazette*, determine for each season—

(a) the State Hen Quota; and

(b) the number (if any) by which the State Hen Quota needs to be reduced so that, in his opinion, the aggregate of all the hen quotas for that season will not exceed the State Hen Quota for that season.

(2) The State Hen Quota for a season reduced by the number determined for that season under paragraph (b) of subsection (1) of this section is referred to in this Division as the Adjusted State Hen Quota for that season; and where no number is fixed for any season under that paragraph the Adjusted State Hen Quota is the same as the State Hen Quota for that season.

Hen quotas
in respect of
individual
licences.

25—(1) For each licence there shall, for each season, be a hen quota determined in accordance with this section.

(2) Subject to this section, the hen quota for a licence for any season shall be that number which bears to the Adjusted State Hen Quota for that season the same proportion as the base quota for that licence bears to the aggregate of the base quotas for all licences as they were fixed at the commencement of that season.

(3) Where the base quota for a licence is not more than one thousand and a hen quota for that licence would, but for this subsection, be less than that base quota, the hen quota for that licence shall be the same as the base quota.

(4) Where the base quota for a licence is more than one thousand and a hen quota for that licence would, but for this subsection, be less than one thousand, the hen quota for that licence shall be one thousand.

(5) Where, apart from this subsection, a hen quota for a licence for which the base quota exceeds thirty thousand would exceed that base quota, that hen quota shall be the same as that base quota.

Temporary
increase of
hen quotas.

26 Where the Board is of opinion that during any part of a season there is likely to be a shortage in the supply of eggs it may, with the approval of the Minister, for the purpose of mitigating or overcoming that shortage, increase for a specified part of that season the hen quota for a licence.

PART III.

SUPPLEMENTARY PROVISIONS.

27—(1) The Board may appoint inspectors for the purposes of ^{Powers of} _{inspectors.} this Act.

(2) An inspector may enter and search—

(a) any premises on which he has reasonable grounds for believing that fowls are kept; and

(b) any premises which he has reasonable grounds for believing are used for or in connection with a business involving the keeping of fowls,

but nothing in this subsection authorizes an inspector to enter a dwelling.

(3) An inspector may require a person holding a licence, or any person apparently in charge of any such premises as are referred to in subsection (2) of this section—

(a) to furnish that inspector with such information as he may require with respect to the fowls on those premises or the business for or in connection with which those premises are used; and

(b) to produce to him any accounts, records, books, or other documents relating to any such fowls or business that are in his custody or control or in the custody or control of any person acting on his behalf.

(4) Any requirement that may be made of the holder of a licence under this section may be made of any one of the joint holders of that licence and where any such requirement may be made of a body corporate that requirement may be made of any director, manager, or secretary of that body or any person appearing to have the management of the business carried on by that body or carried on by that body at the premises in relation to which the requirement is made.

(5) A person who—

(a) refuses or fails to comply with a requirement made under this section; or

(b) in response to such a requirement furnishes any information that he knows to be false or does not believe to be true,

is guilty of an offence and liable to a penalty of five hundred dollars.

Offences in
respect of false
statements, &c.

28—(1) A person who makes, or causes to be made, a statement or representation that is false or misleading in a material particular with the intent that account should be taken of that statement or representation in relation to the granting of a licence or the fixing of a base quota is guilty of an offence.

(2) A person who, in furnishing any information, giving any notification, keeping any record, or making any return required of him under regulations made under this Act, makes, or causes to be made, any statement or representation that is false or misleading in a material respect is guilty of an offence.

(3) It is a defence in any proceedings for an offence under this section in respect of any statement or misrepresentation for it to be shown that the defendant believed, on reasonable grounds, that the statement or representation was true and was not misleading.

(4) A person who is guilty of an offence under this section is liable to a penalty of five hundred dollars.

Regulations.

29 The Governor may make regulations under this Act and, in addition to any other provision that may be made in the regulations, the regulations may—

- (a) prescribe the manner in which any application is to be made, or any notice is to be or may be given, under this Act;
- (b) require records to be kept with respect to the keeping of fowls;
- (c) require returns or notifications to be made with respect to the keeping of fowls; and
- (d) impose penalties, not exceeding five hundred dollars, in respect of contraventions of any of the provisions of the regulations.