

# HONEY INDUSTRY.

No. 105 of 1962.

An Act relating to the Honey Industry.

[Assented to 14th December, 1962.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

## PART I.—PRELIMINARY.

1. This Act may be cited as the *Honey Industry Act* 1962. Short title.
2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
3. This Act is divided into Parts, as follows:— Parts.
  - Part I.—Preliminary (Sections 1-5).
  - Part II.—Establishment of the Australian Honey Board (Sections 6-15).
  - Part III.—Functions and Powers of the Australian Honey Board (Sections 16-21).
  - Part IV.—Export Control (Section 22).
  - Part V.—Finance (Sections 23-28).
  - Part VI.—Miscellaneous (Sections 29-32).
- 4.—(1.) The

**Objects of  
this Act.**

4.—(1.) The objects of this Act are—

- (a) to promote and control the export from Australia of honey;
- (b) to promote trade and commerce in honey among the States, between States and Territories and within the Territories; and
- (c) to encourage the production, and the use, of honey in the Territories,

and this Act shall be construed and administered accordingly.

(2.) The Board shall not perform its functions or exercise its powers except for the purpose of achieving an object specified in the last preceding sub-section.

**Definitions.**

5. In this Act, unless the contrary intention appears—

- “ approved bank ” means the Reserve Bank of Australia or another bank approved by the Treasurer for the purposes of the provision in which the expression occurs;
- “ honey ” means honey produced in Australia;
- “ member ” means a member of the Board;
- “ nominated member ” means a member of the Board other than the member representing the Commonwealth;
- “ the Auditor-General ” means the Auditor-General for the Commonwealth;
- “ the Board ” means the Australian Honey Board established by this Act;
- “ the Chairman ” means the Chairman of the Board;
- “ the Committee ” means the Executive Committee of the Board established by section twelve of this Act;
- “ the Deputy Chairman ” means the Deputy Chairman of the Board.

**PART II.—ESTABLISHMENT OF THE AUSTRALIAN HONEY BOARD.****Establishment  
of Board.**

6.—(1.) For the purposes of this Act, there shall be an Australian Honey Board.

(2.) The Board—

- (a) is a body corporate, with perpetual succession;
- (b) shall have a common seal;
- (c) is capable of acquiring, holding and disposing of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.

7.—(1.) The

7.—(1.) The Board shall consist of—

- (a) a member to represent the Commonwealth, who shall be the Chairman of the Board;
- (b) five members to represent honey producers; and
- (c) four members to represent honey packers.

(2.) The members of the Board shall be appointed by the Minister.

(3.) Of the five members to represent honey producers—

- (a) one shall be nominated by The Commercial Apiarists' Association of New South Wales;
- (b) one shall be nominated by the Victorian Apiarists' Association;
- (c) one shall be nominated by The Queensland Beekeepers' Association;
- (d) one shall be nominated by The South Australian Apiarists' Association; and
- (e) one shall be nominated by the Beekeepers' Section of The Farmers' Union of Western Australia (Inc.),

and each such nomination is subject to the concurrence of The Federal Council of Australian Apiarists' Associations.

(4.) For the purposes of the appointment of the members to represent honey packers, each honey packer carrying on business in a State other than Queensland or Tasmania may nominate one person for appointment, and the members to represent honey packers shall be appointed from among persons so nominated, but so that not more than one such member shall be appointed by virtue of the nominations made by honey packers carrying on business in any one State.

(5.) A honey packer carrying on business in more than one of the States other than Queensland and Tasmania shall, in any nomination made by him under the last preceding sub-section, specify one of the States in which he carries on business as the State in respect of which the nomination is made, and the State so specified shall, for the purposes of that sub-section, be deemed to be the only State in which he carries on business.

(6.) The appointment of a nominated member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in connexion with his nomination or appointment.

(7.) A nominated member (not being a member appointed under sub-section (9.) of this section) holds office for three years, but is eligible to be nominated for re-appointment.

(8.) The member of the Board representing the Commonwealth holds office during the pleasure of the Minister.

(9.) The Minister may, on the death, resignation or removal from office of a nominated member, appoint a person to hold the vacant office for the remainder of the period of office of the member.

(10.) The

(10.) The exercise of a power or the performance of a function by the Board is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Board.

**Deputy  
Chairman.**

8.—(1.) There shall be a Deputy Chairman of the Board, who shall be a member of the Board elected by the members of the Board as the Deputy Chairman.

(2.) The Deputy Chairman holds office for a period of one year, but is eligible for re-election.

(3.) The Deputy Chairman may resign his office as Deputy Chairman by writing under his hand delivered to the Chairman.

(4.) The Deputy Chairman ceases to hold office as Deputy Chairman if he ceases to be a member of the Board.

**Meetings of  
the Board.**

9.—(1.) The Board shall hold meetings at such times and places as the Board determines.

(2.) The Chairman or, when the Chairman is outside Australia or the office of Chairman is vacant, the Deputy Chairman, may, at any time, convene a meeting of the Board and shall do so upon the request in writing of not less than three members.

(3.) The Chairman shall preside at all meetings of the Board at which he is present.

(4.) In the absence of the Chairman from a meeting of the Board, the Deputy Chairman, if he is present, shall preside.

(5.) In the event of the absence of both the Chairman and the Deputy Chairman from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(6.) At a meeting of the Board, six members constitute a quorum.

(7.) A question arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting.

(8.) The member presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9.) The Board shall keep a record of its proceedings.

(10.) The Board may invite a person to attend a meeting of the Board for the purpose of advising or informing the Board on any matter.

**Deputies  
of members.**

10.—(1.) A nominated member may appoint a person approved by the Minister to be his deputy.

(2.) A member may revoke the appointment of a person as his deputy, but the revocation is not effective until the member has given notice in writing of the revocation to the Minister.

(3.) The

(3.) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Board, to attend that meeting and, when so attending, shall be deemed to be a member.

11.—(1.) The Minister may, at any time, on the recommendation of the Board, remove from office a nominated member.

Removal and  
resignation of  
members and  
deputies.

(2.) The Minister may remove from office a nominated member or the deputy of a member for incapacity, incompetence or misbehaviour.

(3.) A member may resign his office by writing under his hand delivered to the Minister.

12.—(1.) There shall be an Executive Committee of the Board consisting of—

Executive  
Committee.

(a) the Chairman of the Board; and

(b) three other members of the Board elected by the members of the Board, of whom at least one shall be a member representing honey producers and at least one shall be a member representing honey packers.

(2.) Members of the Committee other than the Chairman of the Board hold office for a period of one year, but are eligible for re-election.

(3.) The Committee shall hold meetings at such times and places as the Committee determines.

(4.) The Chairman of the Board or, when the Chairman is outside Australia or the office of Chairman is vacant, the Deputy Chairman, may, at any time, convene a meeting of the Committee.

(5.) In the event of the absence of the Chairman of the Board from a meeting of the Committee, the Deputy Chairman, if not already a member of the Committee, is entitled to attend the meeting and, when so attending, shall be deemed to be a member of the Committee.

(6.) At a meeting of the Committee—

(a) three members form a quorum;

(b) the Chairman of the Board or, in his absence, the Deputy Chairman or, in the absence of the Chairman and the Deputy Chairman, a member elected by the members present to act as chairman of the Committee, shall preside;

(c) all questions shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes of such members, the question shall be deemed to have been decided in the negative; and

(d) the member presiding has a deliberative vote only.

(7.) A member

(7.) A member of the Committee, other than the Chairman of the Board, may resign his office as a member of the Committee by writing under his hand delivered to the Chairman.

(8.) A member of the Committee ceases to hold office as such a member if he ceases to be a member of the Board.

(9.) If the place of a member of the Committee, other than the Chairman of the Board, becomes vacant before the expiration of his term of office, the members of the Board shall, subject to sub-section (1.) of this section, elect another member of the Board to hold the vacant place for the remainder of that term.

(10.) The deputy of a member of the Board who is a member of the Committee is entitled, in the event of the absence of the member from a meeting of the Committee, to attend that meeting and, when so attending, shall be deemed to be a member of the Committee.

(11.) The Committee may invite a person to attend a meeting of the Committee for the purpose of advising or informing the Committee on any matter.

(12.) The exercise of a power or the performance of a function by the Committee is not invalidated by reason only of there being a vacancy in the membership of the Committee.

**Elections.**

13.—(1.) An election for the purposes of this Part by members of the Board shall be held in such manner as the Board determines, and the right to vote at such an election may, if the Board so determines, be confined to the members of the Board who are present at a meeting of the Board.

(2.) The Chairman of the Board shall certify in writing to the Minister the results of an election referred to in the last preceding sub-section, and a member named in the certificate as having been elected at that election shall, for the purposes of this Act, be conclusively presumed to have been duly elected at that election.

**Remuneration and allowances.**

14.—(1.) Members and deputies of members shall be paid, in respect of attendance at meetings of the Board or of the Committee, or while engaged (whether in Australia or overseas), with the approval of the Board, on business of the Board, such remuneration and allowances as the Governor-General determines.

(2.) If a member or the deputy of a member is a member of, or a candidate for election to, the Parliament of the Commonwealth or of a State, he shall not be paid remuneration or allowances under the last preceding sub-section, but shall, subject to the approval of the Minister, be reimbursed such expenses as he reasonably incurs by reason of his attendance at meetings of the Board or of the Committee or of his engagement (whether in Australia or overseas), with the approval of the Board, on business of the Board.

(3.) A person

(3.) A person invited by the Board or by the Committee to attend a meeting of the Board or of the Committee, as the case may be, may be paid in respect of that attendance such fees and allowances as the Minister determines.

15.—(1.) The Board may appoint a person or persons approved by the Minister to represent the Board overseas. Overseas representative.

(2.) A person appointed under this section shall be appointed upon such terms and conditions as the Board, with the approval of the Minister, determines.

### PART III.—FUNCTIONS AND POWERS OF THE AUSTRALIAN HONEY BOARD.

16.—The functions of the Board are— Functions.

- (a) to make recommendations to the Minister with respect to the rate of the levy under the *Honey Levy Act (No. 1) 1962*, and the rate of the levy under the *Honey Levy Act (No. 2) 1962*, to be prescribed from time to time;
- (b) to make recommendations to the Minister with respect to the making of regulations under this Act or any other Act for the purpose of controlling the export of honey from Australia;
- (c) to make reports and suggestions to, and to formulate plans for the consideration of, the Minister with respect to any matter affecting the honey industry, including any matter relating to the export of honey from Australia;
- (d) to promote the consumption and sale, both in Australia and overseas, of honey;
- (e) to assist and encourage the improvement of the methods of production, storage and transport of honey; and
- (f) such functions in relation to the export, and the sale and distribution after export, of honey as are conferred by or under this Act.

17.—(1.) Subject to the next succeeding sub-section, the Board has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions. Powers generally.

(2.) In the exercise of its powers in relation to the functions of the Board specified in paragraphs (d) and (e) of the last preceding section, the Board is subject to any directions of the Minister.

18.—(1.) The Board may accept control of honey placed under its control for export from Australia. Board may accept control of honey.

(2.) The

(2.) The Board has, with respect to honey so placed under its control, full authority to make such arrangements and give such directions as it thinks fit for or in relation to any of the following matters:—

- (a) the handling, storage and shipment of the honey;
- (b) the insurance against loss of the honey, either in Australia, in transit or overseas; and
- (c) the sale or disposal of the honey, either before or after export from Australia.

(3.) The Board shall, in relation to honey referred to in this section, be deemed to be the agent of the owner of the honey, but without prejudice to the power of the Board to exercise, without the authority of the owner, the powers conferred by the last preceding sub-section.

(4.) For the purpose of securing any advances made to the Board, or, at the request of the Board, to the owners of any honey placed under the control of the Board, the Board has, by virtue of this Act and without further authority, full power, on behalf of the owners of the honey, to give security over the honey and to execute all mortgages and other instruments of assurance in the same manner in all respects as if the Board were the legal owner of the honey.

**Board not to trade in honey.**

19. Except as provided by or under this Act, the Board shall not trade in honey.

**Staff.**

20.—(1.) Subject to this section, the Board may employ such persons as it thinks necessary for the exercise of its powers.

(2.) The terms and conditions of employment of persons employed under this section are such as are, subject to the approval of the Public Service Board, determined by the Board.

(3.) Where a person employed under this section was, immediately before his appointment, an officer of the Public Service of the Commonwealth—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service as a person employed by the Board shall be taken into account as if it were service in the Public Service of the Commonwealth; and
- (c) the *Officers' Rights Declaration Act 1928–1959* applies as if this Act and this section had been specified in the Schedule to that Act.

(4.) The



(4.) The *Commonwealth Employees' Compensation Act 1930-1959* applies to persons employed under this section as if they were employees within the meaning of that Act and as if references in that Act to the Commonwealth were references to the Board.

21.—(1.) The Board may, by instrument in writing, delegate to the Committee, either generally or to the extent provided in the instrument of delegation, all or any of its powers under this Act (except this power of delegation) so that the delegated powers may be exercised and performed by the Committee in accordance with the instrument of delegation.

Delegation  
by Board.

(2.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Board.

#### PART IV.—EXPORT CONTROL.

22.—(1.) For the purpose of enabling the Board effectively to control the export and the sale and distribution after export of honey, the regulations may prohibit the export from Australia of honey by a person other than the Board unless—

Regulations  
may prohibit  
export except  
on conditions.

- (a) the person holds a licence to export honey issued, on the recommendation of the Board, by the Minister or by a person authorized by the Minister;
- (b) the Board has issued a permit to the person to export the honey and any conditions contained in the permit are complied with; and
- (c) the export is in accordance with such conditions and restrictions as are prescribed.

(2.) Regulations prescribing conditions or restrictions for the purposes of paragraph (c) of the last preceding sub-section shall not be made unless the conditions or restrictions, as the case may be, have been recommended to the Minister by the Board.

(3.) The regulations may provide that, except with the approval of the Board, a person other than the Board shall not export honey from Australia unless an arrangement has been made between the person and the Board for the sale and disposal of the honey outside Australia by the Board on behalf of the person.

(4.) Honey the exportation of which is prohibited by the regulations shall be deemed to be a prohibited export for the purposes of the *Customs Act 1901-1960*.

#### PART V.—FINANCE.

23. There shall be paid to the Board out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to the amounts of levy received by the Commonwealth under the *Honey Levy Collection Act 1962*, including amounts payable by way of penalty under section eight of that Act.

Moneys to be  
paid to the  
Board out  
of the  
Consolidated  
Revenue Fund.

24.—(1.) The

**Bank accounts.** 24.—(1.) The Board may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2.) The Board shall pay all moneys received by it into an account referred to in this section.

(3.) The regulations may prescribe the manner in which cheques drawn on an account referred to in this section shall be signed.

**Application of moneys.** 25.—(1.) Subject to the next succeeding sub-section, the moneys of the Board shall be applied only—

(a) in payment or discharge of the expenses, obligations and liabilities of the Board arising out of the performance of its functions, or the exercise of its powers, under this Act; and

(b) in payment of remuneration, allowances or expenses payable to any person (including a member of the Board) under this Act.

(2.) Moneys of the Board not immediately required for any of the purposes specified in the last preceding sub-section may be invested on fixed deposit with an approved bank or in securities of the Commonwealth.

**Accounts and records to be kept.** 26. The Board shall keep proper accounts and records of the transactions and affairs of the Board and shall do all things necessary to ensure that all payments out of the moneys of the Board are properly authorized and correctly made and that adequate control is maintained over the assets of, or in the custody of, the Board and over the incurring of liabilities by the Board.

**Audit.** 27.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Board and shall forthwith draw the Minister's attention to any irregularity revealed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

(2.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents, and papers of the Board relating directly or indirectly to the receipt or payment of moneys by the Board or to the acquisition, receipt, custody or disposal of assets of the Board.

(3.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records documents or papers.

(4.) The

(4.) The Auditor-General or an officer authorized by him may require a member of the Board or a member of the staff of the Board to furnish him with such information in the possession of that person or to which that person has access as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Act, and that person shall comply with the requirement.

28.—(1.) Subject to this section, the Board is subject to taxation (other than taxes on income) under the laws of the Commonwealth, but is not subject to taxation under a law of a State or Territory of the Commonwealth to which the Commonwealth is not subject. Taxation.

(2.) Stamp duty under the law of a State or a Territory of the Commonwealth is payable by the Board and in respect of transactions entered into, and instruments and documents executed, by or on behalf of the Board.

#### PART VI.—MISCELLANEOUS.

29.—(1.) The Board may require a person to furnish, within such time as is specified by the Board, any returns or information in relation to the honey industry that is, in the opinion of the Board, required to enable it to perform its functions or exercise its powers under this Act. Returns to the Board.

(2.) A person shall not, without reasonable excuse, refuse or fail to comply with a requirement under the last preceding sub-section.

Penalty: One hundred pounds.

30.—(1.) The Board shall, as soon as practicable after the thirtieth day of June in each year, report to the Minister generally as to the operation of this Act during the year ended on that date. Annual report.

(2.) The Minister shall cause a copy of the report of the Board to be laid before each House of the Parliament within seven sitting days of that House after he receives the report.

31. Nothing in this Act or the regulations restricts the operation of the *Customs Act* 1901–1960 or the *Commerce (Trade Descriptions) Act* 1905–1950 or the regulations made under either or both of those Acts. Operation of certain Acts not restricted.

32. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.