



Western Australia

Agricultural Produce Commission Act 1988

**Incorporating the amendments proposed
by the *Agricultural Produce Commission
Amendment Bill 2021 (Bill No. 18-2)***

Agricultural Produce Commission Act 1988

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Agricultural Produce Commission Act 1988

An Act to —

- **provide for the constitution of an Agricultural Produce Commission for the purposes of encouraging initiative among producers of agricultural produce to form producers' committees for the purposes of providing services to producers of agricultural produce; and**
- **define the functions of the Commission and producers' committees; and**
- **authorise the determination and imposition of charges for services; and**
- **amend the *Parliamentary Commissioner Act 1971* and the *Constitution Acts Amendment Act 1899*¹,**

and for related purposes.

[Long title inserted: No. 20 of 2000 s. 4.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Agricultural Produce Commission Act 1988*.

[Section 1 amended: No. 20 of 2000 s. 5.]

2. Commencement

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

3. Terms used

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

agricultural industry means a horticultural industry and such other agricultural industry as [is prescribed for the purposes of this definition, other than an industry that concerns livestock enterprises generally conducted on land under a pastoral lease; may be prescribed but excluding broadacre cropping and grazing industries;](#)

agricultural produce means the produce of an agricultural industry;

[authorised officer](#) means a person designated under section 19B as an authorised officer;

Commission means the Agricultural Produce Commission established under section 4;

member in relation to —

- (a) the Commission, means a member of the Commission and includes the chairperson;
- (b) a producers' committee, means a member of the producers' committee and includes the chairperson;

[pastoral lease](#) has the meaning given in the *Land Administration Act 1997* section 3(1);

producers' committee means a producers' committee established under section 11.

[(2) *deleted*]

[Section 3 amended: No. 9 of 1998 s. 16; No. 20 of 2000 s. 6; Agricultural Produce Commission Amendment Bill 2021 cl. 4.]

Part 2 — Agricultural Produce Commission

[Heading inserted: No. 20 of 2000 s. 7.]

4. Agricultural Produce Commission established

- (1) There is hereby established a body to be called the Agricultural Produce Commission.
- (2) The Commission is a body corporate with perpetual succession and a common seal and is capable of —
 - (a) acquiring, holding, managing, leasing and disposing of real and personal property; and
 - (b) suing and being sued; and
 - (c) doing and suffering all such acts and things as a corporation may lawfully do and suffer.
- (3) The Commission is not an agent of the Crown in right of the State.

[Section 4 amended: No. 20 of 2000 s. 8 and 27.]

5. Constitution of Commission

- (1) The Commission is to consist of [3 or 4](#) members appointed by the Minister.
- (2) A member of the Commission is to have, in the Minister's opinion, a broad understanding of agricultural industry and —
 - (a) experience in financial management; or
 - (b) other experience relevant to the Commission's functions.
- (3) The Minister shall, prior to making any appointments to the Commission, establish in writing the particular experience relevant to the Commission's functions which the Minister determines is necessary for membership of the Commission.
- (4) The Minister shall —
 - (a) publish and make available on request the selection criteria for membership of the Commission established under subsection (3);
 - (b) advertise in a major newspaper circulating in the State when there is a vacancy in the Commission's membership, and that applicants are invited to apply;

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- (c) indicate in such advertisement any conditions required of candidates for membership of the Commission including the disclosure of any possible conflicts of interest.
- (5) The Minister is to appoint one of the members of the Commission to be the chairperson.
- (6) The Schedule has effect with respect to the Commission and its acts and proceedings.

[Section 5 inserted: No. 20 of 2000 s. 9; amended: Agricultural Produce Commission Amendment Bill 2021 cl. 5.]

6. Functions of Commission

- (1) Subject to this Act the Commission may —
 - (a) establish producers' committees with responsibility for in relation to agricultural produce; and
 - (aa) allocate responsibility for agricultural produce to existing producers' committees; and
 - (ab) remove responsibility for agricultural produce from producers' committees; and
 - (b) appoint members to producers' committees; and
 - (c) advertise for the formation of producers' committees; and
 - (d) conduct polls under this Act; and
 - (da) wind up the affairs of producers' committees and appoint liquidators for that purpose; and
 - (e) dissolve producers' committees; and
 - ~~(d) conduct polls as prescribed under this Act for the purposes of the establishment and operation of producers' committees; and~~
 - ~~(e) dissolve producers' committees and appoint liquidators for the winding up of producers' committees; and~~
 - (f) provide such services in relation to the functioning of producers' committees as are necessary from time to time; and
 - (fa) provide, as are necessary from time to time, persons to assist producers' committees in carrying out their functions under this Act; and

- (g) direct, co-ordinate and supervise the functioning and expenditure of producers' committees; and
 - (h) provide such other services to producers' committees as the Minister may direct.
- (2) Without limiting subsection (1), a producers' committee may be established with responsibility, or be allocated responsibility for —established—
- (a) ~~in relation to~~ any agricultural produce of a particular kind, class or variety or which possesses a particular characteristic; or
 - (b) ~~in relation to~~ a number of different kinds, classes or varieties of agricultural produce; or
 - (c) achieving to achieve specified objects in relation to any agricultural produce,
- for the whole State or part of the State.
- (3) In performing its functions in relation to a producers' committee the Commission shall have regard to advice to it from the committee.

[Section 6 amended: No. 29 of 1993 s. 4; No. 20 of 2000 s. 10, 28 and 31; Agricultural Produce Commission Amendment Bill 2021 cl. 6.]

6A. Directions by Minister

- (1) The Minister may give directions in writing to the Commission with respect to the performance of its functions either generally or in relation to a particular matter, and the Commission shall give effect to such direction.
- (2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the Commission under Part 5 of the *Financial Management Act 2006*.

[Section 6A inserted: No. 29 of 1993 s. 5; amended: No. 77 of 2006 Sch. 1 cl. 3(1).]

6B. Minister to have access to information

- (1) For parliamentary purposes or for the proper conduct of the Minister's public business, the Minister is entitled —
 - (a) to have information in the possession of the Commission; and

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- (b) where the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
 - (a) request the Commission to furnish information to the Minister;
 - (b) request the Commission to give the Minister access to information;
 - (c) for the purposes of paragraph (b) make use of the staff of the Commission to obtain the information and furnish it to the Minister.
- (3) The Commission shall comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —

document includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

information means information specified, or of a description specified, by the Minister that relates to the functions of the Commission;

parliamentary purposes means the purpose of —

 - (a) answering a question asked in a House of Parliament; or
 - (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

[Section 6B inserted: No. 29 of 1993 s. 5.]

7. Funds of Commission

- (1) The funds of the Commission shall consist of —
 - (a) charges received by the Commission for services provided by the Commission to producers' committees; and
 - (b) moneys paid to the Commission upon the dissolution of any producers' committee under section 15; and
 - (c) such moneys as may be lawfully received by the Commission.

- (2) An agency special purpose account called the Agricultural Produce Commission Account is established under section 16 of the *Financial Management Act 2006*.
- (3) All moneys received by the Commission and by any producers' committee shall be credited to the Agricultural Produce Commission Account.

[Section 7 amended: No. 49 of 1996 s. 64; No. 20 of 2000 s. 11, 27 and 31; No. 28 of 2006 s. 7; No. 77 of 2006 Sch. 1 cl. 3(2).]

8. Application of funds

- (1) The funds of the Commission shall be applied for the purposes of carrying out the functions of the Commission under this Act.
- (2) Where the funds of the Commission are not sufficient the Treasurer may make advances of moneys to the Commission from time to time to make up any deficiency in those funds.
- (3) The Treasurer may recoup any moneys advanced to the Commission under subsection (2) whenever the Treasurer is of the opinion the Commission has sufficient funds for carrying out its functions under this Act.

9. Commission may employ or engage persons ~~Officers~~

The Commission may, with the approval of the Minister, employ or engage such ~~officers, servants and other~~ persons as are necessary for the purposes of carrying out its functions under this Act.

[Section 9 amended: Agricultural Produce Commission Amendment Bill 2021 cl. 7.]

Part 3 — Producers' committees

[Heading inserted: No. 20 of 2000 s. 12.]

Division 1 — Establishing producers' committees

*[Heading inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 8.]*

10. Preliminary requirements for establishment of producers' committees

(1) A producer or producers of agricultural produce, or a body representing the interests of such producers, may request the Commission to conduct a poll for the purpose of establishing a producers' committee with responsibility for the agricultural produce for the whole State or a part of the State.

(1A) A request made under subsection (1) must —

(a) be made in writing; and

(b) specify the agricultural produce for which the producers' committee is proposed to have responsibility; and

(c) specify the objects sought to be effected by establishing the producers' committee; and

(d) if the producers' committee is proposed to be established only in relation to a particular part of the State, specify the part of the State in relation to which it is proposed to be established.

(1B) The Commission must publish notice of a proposal to establish the producers' committee.

~~(1) Before establishing a producers' committee the Commission shall cause notice to be published of its intention to establish that committee.~~

(2) A notice referred to in subsection (1B) ~~subsection (1)~~ —

(a) must ~~shall~~ be published in the manner directed by the Minister; and

(aa) must specify the name or names of the producer or producers, or body, that made the request; and

(b) must ~~shall~~ explain in simple terms the objects sought to be effected by the proposal; and

- (c) must ~~shall~~ specify the agricultural produce for which the producers' committee is proposed to have responsibility; and ~~the subject of the proposal; and~~
 - [(d) deleted]*
 - (e) where the producers' committee is to be established only in relation to a particular part of the State, must ~~shall~~ specify the part of the State in relation to which the producers' committee is proposed to be established; and
 - (f) must ~~shall~~ invite submissions from producers who may be affected by the proposal.
- (2a) In performing its functions under this Division, the Commission must ~~section and section 11, the Commission shall~~ have regard to any submissions made to it under subsection (2)(f).
- (3) If the Commission is satisfied that, having regard to the interests of the agricultural industry in question, the formation of the proposed producers' committee would be materially to the financial detriment of a producer or producers who may be affected by the proposal the Commission must ~~shall~~ not proceed to conduct the poll in accordance with the provisions of this section but if the Commission is not so satisfied the Commission must, subject to subsection (5), ~~shall~~ conduct the poll.
- (4) For the purposes of subsection (3), ~~facilitating its consideration of the submissions under subsection (3)~~ the Commission may invite any producer who in its opinion has ~~producers who in the opinion of the Commission have~~ an interest in the proposal to attend meetings of the Commission.
- (5) The Commission must not conduct a poll for the establishment of a producers' committee unless the producer or producers, or body, that requested the poll deposits with the Commission such sum as is determined by the Commission as the reasonable costs of the poll and the estimated initial costs of the establishment of the producers' committee.
- (6) If the Commission resolves to establish the producers' committee, any money paid to the Commission under subsection (5) must be repaid by the producers' committee out of the funds of the producers' committee to the producer or producers, or body, that made the deposit under that subsection.

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Part 3 Producers' committees

Division 1 Establishing producers' committees

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(7) The Commission must not establish a producers' committee with responsibility for agricultural produce unless —

(a) the Commission has —

(i) complied with subsections (1B) and (2); and

(ii) conducted a poll among the producers of the agricultural produce in the whole of the State, or a part of the State, as is relevant to the proposal to establish the producers' committee;

and

(b) the poll is in favour of the proposal.

(8) Even if the Commission has complied with subsections (1B) to (5) and (7) and a poll of producers vote in favour of the proposal, the Commission may refuse to establish, or defer the establishment of, the producers' committee if the Commission considers that, having regard to the circumstances of the case, it is not desirable or practicable to do so.

~~(5) The Commission shall not conduct a poll for the establishment of a producers' committee unless the person or persons requesting the establishment of the producers' committee in question deposit with the Commission such sum as is determined by the Commission as the reasonable costs of the poll and the estimated initial costs of the establishment of the producers' committee.~~

~~(6) Any moneys paid to the Commission under subsection (5) shall be repaid by the producers' committee out of the funds of the producers' committee to the persons who made the deposit under that subsection in accordance with the directions of the Commission.~~

~~(7) The Commission shall not establish a producers' committee in relation to agricultural produce unless the Commission has after complying with subsections (1) and (2) conducted a poll among the producers of agricultural produce the subject of the notice referred to in subsections (1) and (2) and, if the proposal to establish the producers' committee is in relation to a particular part of the State, in the part of the State in question, and the poll is in favour of the proposal.~~

~~{(8) deleted}~~

~~(9) Notwithstanding that the Commission has complied with subsections (1) to (7) and notwithstanding that a poll of producers vote in favour of the proposal the Commission may refuse to establish, or defer the establishment of, a producers' committee if the Commission considers that having regard to the circumstances of a particular case it is not desirable or practicable to do so.~~

[Section 10 amended: No. 29 of 1993 s. 6; No. 20 of 2000 s. 13, 28, 29, 30 and 31; [Agricultural Produce Commission Amendment Bill 2021 cl. 9.](#)]

11. Establishment of producers' committee

- (1) Where the Commission resolves to establish a producers' committee the Commission shall by notice in the *Gazette* —
- (a) specify —
 - (i) the agricultural produce for which the producers' committee has responsibility; and
 - ~~(i) the agricultural produce in relation to which the producers' committee is established; and~~
 - (ii) whether the producers' committee is established in relation to the whole State or in relation to only a portion of the State and in that case the portion of the State in relation to which it is so established;
 - and
 - (b) invite nominations from among the producers concerned for appointment to the producers' committee.
- (1a) After receiving the nominations the Commission —
- (a) shall decide how many members there shall be on the producers' committee; and
 - (b) if it is of the opinion that a poll ~~the poll~~ of the producers concerned should be held to elect the members, shall conduct a poll.
- (1b) A person is not eligible to stand at a poll to elect members of the producers' committee unless the person is qualified to be appointed to the committee in relation to the kind of agricultural produce in question.
- (1c) Subject to subsection (2), the persons elected at a poll to be members of a producers' committee shall be appointed by the Commission to be members of the committee.

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Part 3 Producers' committees

Division 2 Allocating responsibility for produce to an existing producers' committee

s. 11A

- (2) The Commission shall not appoint a person to be a member of a producers' committee unless the Commission is of the opinion that the person is qualified to be so appointed in relation to the agricultural produce in question.
- (3) Except to the extent prescribed in this Act or the regulations the Commission may from time to time give directions with respect to the constitution, membership, terms and proceedings of a producers' committee and incidental and related matters.
- (4) Any directions given under subsection (3) shall be published in the *Gazette*.
- (5) Sections 43 and 44 of the *Interpretation Act 1984* apply to directions given under this section as though the directions were subsidiary legislation.

*[Section 11 amended: No. 20 of 2000 s. 14, 28, 30 and 31;
Agricultural Produce Commission Amendment Bill 2021 cl. 10.]*

Division 2 — Allocating responsibility for produce to an existing producers' committee

[Heading inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 11.]

11A. Preliminary requirements for allocating responsibility for agricultural produce to existing producers' committee

- (1) Subject to subsection (2), a producer or producers of agricultural produce, or a body representing the interests of such producers, may request the Commission to conduct a poll for the purpose of allocating responsibility for the agricultural produce to an existing producers' committee.
- (2) A request cannot be made under subsection (1) unless the producers' committee has given its written approval to the request being made.
- (3) A request made under subsection (1) must —
 - (a) be made in writing; and
 - (b) specify the producers' committee and the additional agricultural produce for which it is proposed to have responsibility; and
 - (c) specify the objects sought to be effected by allocating responsibility for the additional agricultural produce to the producers' committee; and

(d) attach the producers' committee's written approval to the request being made.

(4) The Commission must publish notice of a proposal to allocate responsibility for agricultural produce to an existing producers' committee.

(5) A notice referred to in subsection (4) must —

(a) be published in the manner directed by the Minister; and

(b) specify the name or names of the producer or producers, or body, that made the request; and

(c) specify the producers' committee and the additional agricultural produce for which it is proposed to have responsibility; and

(d) explain in simple terms the objects sought to be effected by the proposal; and

(e) invite submissions from producers who may be affected by the proposal.

(6) In performing its functions under this Division, the Commission must have regard to any submissions made to it under subsection (5)(e).

[Section 11A inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 11.]

11B. Polls to allocate responsibility for produce to existing producers' committee

(1) If a request is made under section 11A(1) to conduct a poll for the purpose of allocating responsibility for agricultural produce to an existing producers' committee, the Commission must, subject to subsections (2) and (4), conduct the poll.

(2) The Commission must not conduct the poll if, in its opinion, allocating responsibility for the agricultural produce to the producers' committee would be materially to the financial detriment of a producer or producers of the agricultural produce.

(3) For the purposes of subsection (2), the Commission may invite any producer who in the opinion of the Commission has an interest in the matter to attend meetings of the Commission.

(4) The Commission must not conduct the poll unless the producer or producers, or body, that requested the poll deposits with the Commission such sum as is determined by the Commission as the reasonable costs of the poll.

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Part 3 Producers' committees

Division 2 Allocating responsibility for produce to an existing producers' committee

s. 11C

(5) If the Commission resolves to allocate responsibility for agricultural produce to the producers' committee, any money paid to the Commission under subsection (4) must be repaid by the producers' committee out of the funds of the producers' committee to the producer or producers, or body, that made the deposit under that subsection.

[Section 11B inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 11.]

11C. Allocating responsibility for agricultural produce to existing producers' committee

(1) The Commission must not allocate responsibility for agricultural produce to an existing producers' committee unless —

(a) the Commission has —

(i) complied with section 11A(4) and (5); and

(ii) conducted a poll under section 11B among the producers of the agricultural produce;

and

(b) the poll is in favour of the proposal.

(2) Even if the Commission has complied with sections 11A(4) and (5) and 11B(1) to (4), the Commission may refuse to allocate responsibility for the agricultural produce to the producers' committee if the Commission considers that, having regard to the circumstances of the case, it is not desirable or practicable to do so.

(3) If the Commission resolves to allocate responsibility for agricultural produce to the producers' committee, then on a day specified by the Commission in a notice under section 11D(1) the producers' committee commences to have responsibility for the agricultural produce.

[Section 11C inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 11.]

11D. Notice of allocation of responsibility for agricultural produce to existing producers' committee and appointing additional members

(1) If the Commission resolves to allocate responsibility for agricultural produce to an existing producers' committee, the Commission must by notice published in the *Gazette* —

(a) specify the producers' committee and the agricultural produce for which it is allocated responsibility; and

(b) specify the day on which the producers' committee commences to have responsibility for the agricultural produce; and

(c) invite nominations from among the producers of the agricultural produce for appointment to the producers' committee.

(2) After receiving nominations the Commission —

(a) must decide how many members, in addition to the current number of members, there is to be on the producers' committee; and

(b) if it is of the opinion that a poll of the producers of the agricultural produce should be held to elect the members, must conduct a poll.

(3) A person is not eligible to stand at a poll under this section to elect members of a producers' committee unless the person is qualified to be appointed to the producers' committee in relation to the agricultural produce in question.

(4) Subject to subsection (5), a person elected at a poll under this section to be a member of a producers' committee must be appointed by the Commission to be a member of the producers' committee.

(5) The Commission must not appoint a person under this section to be a member of a producers' committee unless the Commission is of the opinion that the person is qualified to be so appointed in relation to the agricultural produce in question.

[Section 11D inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 11.]

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Part 3 Producers' committees

Division 3 Appointment of non-producers to producers' committees

s. 11E

Division 3 — Appointment of non-producers to producers' committees

[Heading inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 11.]

11E. Appointment of non-producers to producers' committees

(1) A producers' committee may nominate for appointment to that producers' committee a person who would not be eligible to stand at a poll under section 11 or 11D to elect members of the producers' committee.

(2) The Commission may appoint a person nominated under subsection (1) by a producers' committee to be a member of the producers' committee if —

(a) the Commission is of the opinion that it would be desirable and practicable to do so; and

(b) the Commission is of the opinion that the person has experience relevant to the producers' committee's functions; and

(c) after the person is appointed, the majority of members of the producers' committee would be producers of the agricultural produce for which the producers' committee has responsibility.

(3) A person appointed to a producers' committee under subsection (2) may take part in the consideration and discussion of any matter before a meeting of the producers' committee, but cannot vote on any matter.

[Section 11E inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 11.]

Division 4 — Functions of producers' committees

[Heading inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 12.]

12. Functions of producers' committee

(1) Subject to any direction given by the Commission and to this section a producers' committee may provide any one or more of the following services as are prescribed in relation to the agricultural produce for which the producers' committee has responsibility ~~— in relation to which it is established —~~

(a) advertise and promote the agricultural produce;

- (b) control or develop the means of controlling pests and diseases if there is a likelihood of those pests or diseases affecting the quality or volume of output of the agricultural produce;
- (c) conduct research in relation to any matter, if in the opinion of the producers' committee that research is of advantage to producers of the agricultural produce;
- (d) conduct educational or instructional programmes [that, in the opinion of the producers' committee, may be of advantage to producers of the](#) ~~relating to the production of~~ agricultural produce;
- (e) develop and expand markets for the agricultural produce in Western Australia and elsewhere;
- (f) establish a voluntary insurance scheme for the benefit of producers of the agricultural produce including insurance relating to crops;
- (g) undertake and provide market forecasting for the agricultural produce;
- (h) establish systems of inspection for the agricultural produce for the purpose of quality control or pest and disease control;
- (i) formulate schemes for declaring producers of the agricultural produce to be accredited producers;
- (j) establish systems to facilitate inspection of grading, packaging and storage of the agricultural produce including weight and uniformity (including uniformity of ripeness) within packages;
- (k) support, with or without grant of financial aid, and whether or not initiated by the committee or the Commission, any scheme or activity which in the committee's opinion is capable of assisting in the [production](#), promotion or sale of the agricultural produce;
- (l) provide such other services for the agricultural produce as may be prescribed;
- (la) establish a compensation scheme for the benefit of producers whose agricultural produce is destroyed as a result of [a pest or disease of that produce](#) or action taken to control a pest or disease of that produce;
- (m) arrange for the provision of all or any of the services or the exercise of any of the functions referred to in paragraphs (a) to (la) in whole or in part by another

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Part 3 Producers' committees

Division 4 Functions of producers' committees

s. 12A

person or organisation or in conjunction with the Commission or any other person or organisation. ~~organization or in conjunction with the Commission or any other person or organization.~~

~~— (2) For the purposes of carrying out its functions under this Act a producers' committee may, with the approval of the Commission, employ or engage such officers, employees and other persons as are necessary.~~

(3) A producers' committee must ~~shall~~ not provide any service or recommend the imposition of any charge for any service or proposed service additional to the service or services the producers' committee is authorised to provide for which the producers' committee was established unless the producers' committee has conducted a poll of the producers concerned and the poll is in favour of the proposal.

(4) The costs of any poll shall be charged to the general funds of the producers' committee.

(5) A producers' committee may, for the purposes of providing services in relation to agricultural produce —

(a) communicate, consult or liaise with producers of agricultural produce; and

(b) hold meetings with producers of agricultural produce.

[Section 12 amended: No. 73 of 1994 s. 4; No. 49 of 1996 s. 64; No. 20 of 2000 s. 15, 28, 30 and 31; Agricultural Produce Commission Amendment Bill 2021 cl. 13.]

12A. Power to enter orchards to administer fruit fly control scheme ~~Powers of officers, employees and other persons~~

(1) Any person employed or engaged by the Commission to assist a producers' committee with responsibility for administering a fruit fly control ~~officers, employees and other persons employed or engaged under section 12(2) by a producers' committee established to administer a fruit fly foliage baiting~~ scheme may, when authorised by the producers' committee, enter any orchard within the specified area to bait or spray all or any of the fruit trees and fruit vines in the manner and with the materials determined by the producers' committee or carry out any other control measures determined by the producers' committee. ~~committee.~~

- (2) A person must not enter an orchard under subsection (1) unless —
- (a) the person has taken reasonable steps to give the owner or occupier of the orchard notice of the intended entry; or
 - (b) the owner or occupier of the orchard consents to the entry.
- (3) The notice must specify the purpose for which the entry is required and successive entries for that purpose are to be regarded as entries to which the notice relates.
- (4) The notice must be given not less than 24 hours before the power of entry is exercised.
- (5) In subsection (1) —

orchard means any land used for the purpose of growing or cultivating plants, and includes any garden, farm, vinery, vineyard, and hothouse, any place where any plant is cultivated or where any plant which has been cultivated is growing;

specified area means the portion of the State specified in a notice under section 11(1)(a)(ii) in relation to which the producers' committee is established.

[Section 12A inserted: No. 24 of 2007 s. 63; amended: Agricultural Produce Commission Amendment Bill 2021 cl. 14.]

13. Power to require statistical information ~~Power to require information~~

(1A) In this section —

prescribed person means a person prescribed for the purposes of this definition.

- (1) For the purposes of facilitating the establishment or operation or both the establishment and operation of a producers' committee the Commission may by notice served on a producer, or a prescribed person, require the producer or prescribed person to furnish in writing in ~~producer require the producer to furnish in writing in the form of~~ a form specified by the Commission within the time specified by the Commission such prescribed statistical information as is specified in the notice.

(2) A person must not without reasonable excuse fail to comply with a requirement in a notice under this section.

Penalty for this subsection: a fine of \$1 000.

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Part 3 Producers' committees

Division 4 Functions of producers' committees

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- ~~(2) A person who~~
- ~~(a) without reasonable cause refuses or fails to comply with a requirement in a notice under this section; or~~
- ~~(b) furnishes to the Commission under this section any information which to the person's knowledge is false or misleading in a material particular,~~
- ~~is guilty of an offence against this Act.~~
- ~~Penalty: \$1 000.~~

[Section 13 amended: No. 20 of 2000 s. 16 and 29; [Agricultural Produce Commission Amendment Bill 2021 cl. 15.](#)]

14. Imposition of charges for services

- (1) The Commission, at the request and with the advice of a producers' committee, may determine the cost or estimated cost of providing a service which the producers' committee is authorised to provide and, with the approval of the Minister, may impose a charge for the provision of that service.
- (2) The Commission is to determine the amount of a charge imposed under this section having regard to the cost or estimated cost of providing the service and any other relevant factors.

(2A) Without limiting subsection (1) or (2), the cost or estimated cost of providing a service includes any cost of or associated with communicating, consulting, liaising or meeting with producers of agricultural produce for the purposes of providing the service.

- (3) Notice of a charge imposed under this section is to be published, and the charge is payable, in accordance with the regulations.

(4) A charge imposed under this section that is paid to, or collected by, a person is held by that person on trust for the producers' committee providing the service for which it is imposed until it is paid to the Commission in accordance with the regulations.

(5) The regulations may provide for the circumstances in which a charge imposed under this section may be waived, refunded or reduced, in whole or in part.

[Section 14 inserted: No. 20 of 2000 s. 17; amended: [Agricultural Produce Commission Amendment Bill 2021 cl. 16.](#)]

**Division 5 — Removing responsibility for agricultural produce
from or dissolving producers' committees**

*[Heading inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 17.]*

**14A. Removing responsibility for agricultural produce from
producers' committee after poll**

- (1) The Commission may conduct a poll of the producers of agricultural produce for which a producers' committee has responsibility for the removal of responsibility for the agricultural produce from the producers' committee.
- (2) If the poll is in favour of removing responsibility for the agricultural produce from the producers' committee, then on a day specified by the Commission by notice published in the *Gazette*, the producers' committee ceases to have responsibility for the agricultural produce.

*[Section 14A inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 17.]*

**14B. Removing responsibility for agricultural produce from
producers' committee without poll**

- (1) The Commission may remove responsibility for agricultural produce from a producers' committee if the Commission is satisfied that the producers' committee —

 - (a) is operating in a manner that is materially to the financial detriment of a producer or producers of the agricultural produce; or
 - (b) is no longer providing any service the producers' committee is authorised to provide.
- (2) If the Commission resolves to remove responsibility for agricultural produce from a producers' committee, then on a day specified by the Commission by notice published in the *Gazette* the producers' committee ceases to have responsibility for the agricultural produce.

*[Section 14B inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 17.]*

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Division 5 Removing responsibility for agricultural produce from or dissolving producers' committees

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15. Dissolution of producers' committee after poll~~Dissolution of producers' committee~~

- (1) The Commission may conduct a poll of producers of the agricultural produce for which a producers' committee has responsibility for the dissolution of the producers' committee.
- (2) If the poll is in favour of the dissolution of the producers' committee, then on a day specified by the Commission by notice published in the *Gazette* the affairs of the producers' committee must commence to be wound up by —
- (a) the Commission; or
- (b) a liquidator appointed by the Commission.
- (3) The day specified under subsection (2) must not be later than 6 months after the taking of the poll.
- (3A) On the day specified by the Commission under subsection (2), the producers' committee must cease to act.
- (3B) On and from the day specified by the Commission under subsection (2), the Commission or the liquidator, as is relevant, may for the purposes of winding up the affairs of the producers' committee —
- (a) perform the functions of the producers' committee; and
- (b) do such other acts and things as the Commission, or liquidator, thinks fit.
- ~~(1) If the Commission takes a poll among the producers concerned for the dissolution of a producers' committee and the poll is in favour of the dissolution of the producers' committee the producers' committee, shall on and from a day appointed by the Commission being a day not later than 6 months after the taking of the poll by notice in the *Gazette*, proceed to be wound up.~~
- ~~(2) The Commission shall on and from the day appointed under subsection (1) appoint a liquidator to wind up the affairs of any producers' committee required to be wound up under that subsection.~~
- ~~(3) Upon the appointment of a liquidator under subsection (2) the producers' committee being wound up shall cease to act and the liquidator, may, for the purposes of the winding up of the affairs~~

~~of the producers' committee in the name of and as the act of the producers' committee —~~

~~(a) exercise such of the functions of the producers' committee;~~

~~(b) do such other acts and things as the liquidator thinks fit.~~

- (4) A liquidator shall receive such remuneration as is determined by the Commission.
- (5) The Commission may by notice published in the *Gazette* declare a producers' committee to be dissolved.
- (6) The dissolution of a producers' committee shall take effect on the date specified in the notice referred to in subsection (5).
- (7) On the dissolution of a producers' committee all money and other assets of the producers' committee —
- (a) shall vest in the Commission;
 - (b) shall be dealt with as the Minister directs for the benefit of the producers concerned.

~~(8) Notwithstanding anything in subsection (1), where the Commission is satisfied that a producers' committee is operating in such a manner that its operations are materially to the financial detriment of a person who is a producer for the purposes of that producers' committee the Commission may dissolve the producers' committee and where the Commission does so the provisions of subsections (2) to (7) apply in relation to such dissolution.~~

*[Section 15 amended: No. 20 of 2000 s. 18, 29, 30 and 31;
Agricultural Produce Commission Amendment Bill 2021 cl. 18.]*

15A. Dissolution of producers' committee without poll

(1) The Commission may dissolve a producers' committee if the Commission is satisfied that the producers' committee —

(a) is operating in a manner that is materially to the financial detriment of a producer or producers of agricultural produce for which it has responsibility; or

(b) is no longer providing any service the producers' committee is authorised to provide.

(2) If the Commission resolves to dissolve a producers' committee, then on a day specified by the Commission by notice published

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in the *Gazette*, the affairs of the producers' committee must commence to be wound up by —

(a) the Commission; or

(b) a liquidator appointed by the Commission.

(3) Section 15(3A) to (7) applies, with any necessary modifications, to the dissolution of a producers' committee under this section.

[Section 15A inserted: *Agricultural Produce Commission Amendment Bill 2021 cl. 19.*]

Division 6 — Conducting polls

[Heading inserted: *Agricultural Produce Commission Amendment Bill 2021 cl. 20.*]

16. List of producers

(1) For the purposes of conducting a poll under this Act the Commission must —

(a) in the case of a producers' committee that has, or is proposed to have, responsibility for agricultural produce for the whole of the State — compile a list of producers of the agricultural produce in the whole of the State; and

(b) in the case of a producers' committee that has, or is proposed to have, responsibility for agricultural produce only in relation to a particular part of the State — compile a list of producers of the agricultural produce in that part of the State.

~~(1) For the purposes of conducting a poll under this Act the Commission shall compile lists of producers of the agricultural produce in relation to which a producers' committee is proposed to be or has been established.~~

(2) A person whose name is included or omitted from a list compiled under subsection (1) and who is aggrieved in relation to that fact may apply to the State Administrative Tribunal for a review of the decision to include or omit the person's name.

[Section 16 amended: No. 20 of 2000 s. 19, 30 and 31; No. 55 of 2004 s. 22; *Agricultural Produce Commission Amendment Bill 2021 cl. 21.*]

16A. Weighted voting

- (1) The Commission may in compiling a list of producers of agricultural produce, determine in writing the number of votes each producer is to have in a poll of the producers of the agricultural produce.
- (2) In determining the number of votes each producer is to have in the poll, the Commission is to ensure that each producer —

 - (a) has at least 1 vote; and
 - (b) has such number of votes as is proportionate to the percentage of the relevant agricultural produce produced in the State, or the relevant part of the State, that was produced by the producer in the 3 year period preceding the year in which the determination is made.
- (3) The Commission must not make a determination under subsection (1) unless it is satisfied that —

 - (a) there is sufficient industry data available to the Commission for it to make the determination; and
 - (b) it is in the best interests of the agricultural industry to do so.
- (4) As soon as practicable after making a determination under subsection (1), the Commission must give a copy of the determination to each producer of the agricultural produce concerned.
- (5) In a poll for which a determination has been made under subsection (1), the number of votes a producer has is to be in accordance with the determination.

[Section 16A inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 22.]

16B. Commission's costs of conducting polls

- (1) Subject to subsection (2), the Commission is entitled to recover from the funds of a producers' committee the Commission's costs of conducting a poll in relation to the producers' committee.
- (2) The amount the Commission may recover under subsection (1) —

 - (a) for a poll under section 10 or 11 — is the amount by which the costs of the poll exceed the sum deposited

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with the Commission under section 10(5) for the purposes of establishing the producers' committee; and

(b) for a poll under section 11B — is the amount by which the costs of the poll exceed the sum deposited with the Commission under section 11B(4) for the purposes of the poll.

[Section 16B inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 22.]

17. Conduct of polls

(1) A poll conducted for the purposes of this Act shall be conducted in accordance with the regulations.

~~(2) The regulations may provide that the costs of and expenses relating to a poll shall be recovered by the Commission from the funds of a producers' committee.~~

[Section 17 amended: No. 20 of 2000 s. 31; Agricultural Produce Commission Amendment Bill 2021 cl. 23.]

Division 7 — Other matters

[Heading inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 24.]

18. Accounts

(1) A producers' committee shall credit to the account established under section 7(2) all moneys received by the producers' committee.

(2) Moneys received in payment of charges imposed under this Act shall be applied exclusively for the services in relation to which those charges were imposed.

(3) Despite subsection (2), any amount which is no longer required by a producers' committee —

(a) to be applied for the service in relation to which the charge was imposed; or

(b) to defray the proper costs and expenses of the producers' committee,

may be allocated by the Commission to be applied for the provision of another service that the committee is authorised to provide.

- (4) The Commission shall maintain proper books of account and records showing amounts credited to the account referred to in subsection (1) and the manner in which the moneys in that account are applied.

[Section 18 amended: No. 49 of 1996 s. 64; No. 20 of 2000 s. 20 and 31.]

19. Voluntary associations of producers

- (1) Notwithstanding anything in this Part where a group of producers of agricultural produce applies to the Commission for the performance by the Commission of the functions of the Commission under this Act in relation to that group of producers and the Commission is satisfied that [there is no producers' committee with responsibility a producers' committee has not been established under this Act in relation to that group of producers](#) for the agricultural produce in question the Commission may with the approval of the Minister perform such functions in relation to the group of producers as are referred to in the application subject to such terms and conditions, including the payment of charges, as are approved by the Minister.
- (2) Where the Commission performs any function or renders any service under subsection (1) each member of the group of producers is jointly and severally liable for such payment of charges (if any) that are payable under the terms and conditions approved under that subsection.

[Section 19 amended: No. 20 of 2000 s. 21, 28, 30 and 31; [Agricultural Produce Commission Amendment Bill 2021 cl. 25.](#)]

19A. Application to commercial and non-commercial producers of provisions relating to control of certain pests or diseases

- (1) Where this section applies, a reference in this Act to a *producer* includes a reference to a producer of any quantity of agricultural produce, whether for sale or not.
- (2) This section applies if —
- the Minister, by notice published in the *Gazette*, has declared a specified pest or disease to be a pest or disease to which this section applies; and
 - a producers' committee is established, or is to be established, with the object of controlling or developing

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the means of controlling the pest or disease specified in the notice.

[Section 19A inserted: No. 20 of 2000 s. 22.]

Part 3A — Compliance

*[Heading inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 26.]*

Division 1 — Authorised officers

*[Heading inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 26.]*

19B. Authorised officers

The Commission may, by instrument in writing, designate any person employed or engaged by the Commission as an authorised officer for the purposes of this Part.

*[Section 19B inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 26.]*

Division 2 — Powers of authorised officers

*[Heading inserted: Agricultural Produce Commission
Amendment Bill 2021 cl. 26.]*

19C. Terms used

In this Division —

charge means a charge imposed under this Act;

compliance purposes means the following purposes —

- (a) monitoring compliance with a requirement under this Act to pay or collect a charge;
- (b) monitoring compliance with a requirement under this Act to give information, or produce a record, relating to the production, processing, sale or purchase of agricultural produce or the payment or collection of a charge;
- (c) monitoring compliance with a requirement in a notice under section 13;
- (d) investigating a suspected contravention of a requirement referred to in paragraph (a), (b) or (c) or an offence under this Act;

record includes a receipt, return or other document;

relevant person means a person who is or was —

- (a) a producer of agricultural produce for which a producers' committee has responsibility; or

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Part 3A Compliance

Division 2 Powers of authorised officers

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(b) a person required under this Act to pay or collect a charge; or

(c) a person required under this Act to give information, or produce a record, relating to the production, processing, sale or purchase of agricultural produce or the payment or collection of a charge; or

(d) a person required to comply with a requirement in a notice under section 13;

relevant record means a record that —

(a) is required to be kept or given under this Act; or

(b) relates to the production, processing, sale or purchase of agricultural produce in relation to which a charge is payable; or

(c) relates to the payment or collection of a charge; or

(d) contains any information that is, or is likely to be, relevant for compliance purposes.

[Section 19C inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 26.]

19D. Obtaining information and relevant records

(1) An authorised officer may, for compliance purposes, do 1 or more of the following —

(a) direct a relevant person —

(i) to give any information as is required; or

(ii) to answer a question put to the person;

(b) direct a relevant person to produce to the authorised officer a relevant record in the person's custody or under the person's control.

(2) An authorised officer may examine and make a copy of a record produced in response to a direction under subsection (1)(b), and retain the record for as long as is reasonably necessary.

(3) A direction under subsection (1)(a) —

(a) may be given orally or in writing; and

(b) must specify the time at, or within which, the information or answer must be given to the authorised officer; and

(c) may require that the information or answer —

(i) be given orally or in writing; or

- (ii) if it is directed to be given in writing, be given by means specified in the direction; or
- (iii) be verified by statutory declaration.

(4) A direction under subsection (1)(b) —

- (a) must be in writing given to the person required to produce the record; and
- (b) must specify the time at, or within which, the record is to be produced; and
- (c) may require that the record be produced to the authorised officer —
 - (i) at a place specified in the direction; and
 - (ii) by the means specified in the direction.

[Section 19D inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 26.]

19E. Failure to comply with directions

A person must not without reasonable excuse fail to comply with a direction given to the person under section 19D(1).

Penalty: a fine of \$1 000.

[Section 19E inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 26.]

19F. Self-incrimination not an excuse

(1) An individual is not excused from complying with a direction under section 19D(1) to provide information or answer questions, or to produce a record, on the ground that the information, answer or record might incriminate the individual or make the individual liable to a penalty.

(2) However, any information or answer provided, or record produced, by an individual in compliance with a direction under section 19D(1) is not admissible in evidence in any proceedings against the individual other than proceedings for perjury or an offence against section 19G(2).

[Section 19F inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 26.]

Part 4 — Miscellaneous

19G. False or misleading information

(1) In this section —

record has the meaning given in section 19C.

(2) A person must not give false or misleading information to —

(a) an authorised officer pursuant to a direction under section 19D(1); or

(b) the Commission pursuant to a notice under section 13; or

(c) any person pursuant to a requirement under this Act to give information, or produce a record, to that person relating to the production, processing, sale or purchase of agricultural produce or the payment or collection of a charge imposed under this Act.

Penalty for this subsection: a fine of \$1 000.

(3) For the purposes of subsection (2), a person gives false or misleading information if the person does 1 or more of the following —

(a) states anything that the person knows is false or misleading in a material particular;

(b) omits from a statement anything without which the statement is, to the person’s knowledge, misleading in a material particular;

(c) gives or produces any record that —

(i) the person knows is false or misleading in a material particular; or

(ii) omits anything without which the record is, to the person’s knowledge, misleading in a material particular.

[Section 19G inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 27.]

20. Financial provisions

(1) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in relation to the Commission and its operations.

- (2) The Commission shall ensure that each producers' committee maintains proper accounts and records of its financial administration and operations in such manner and form as the Treasurer approves.

[Section 20 amended: No. 20 of 2000 s. 31; No. 77 of 2006 Sch. 1 cl. 3(3).]

20A. Giving notices and other documents electronically

- (1) A notice or other document required or permitted under this Act to be given to a person may be given to the person by emailing it to an email address —

(a) provided by the person; or

(b) appearing on recent correspondence addressed by or on behalf of the person to the Commission or a producers' committee; or

(c) otherwise notified to the Commission or a producers' committee, or published by the person.

- (2) This section is in addition to the *Interpretation Act 1984* section 76.

[Section 20A inserted: Agricultural Produce Commission Amendment Bill 2021 cl. 28.]

21. Authentication

Every summons, process, order, notice, statement or advertisement requiring authentication by the Commission may be authenticated without the seal of the Commission if signed by —

(a) the chairperson; or

(b) a person authorised by the chairperson.

22. Recovery of charges

- (1) Any moneys due to the Commission or to a producers' committee may be recovered by the Commission in any court of competent jurisdiction.

[(2) deleted]

[Section 22 amended: No. 49 of 1996 s. 64; No. 20 of 2000 s. 23 and 31.]

s. 23

23. Evidentiary

In any legal proceedings —

- (a) until evidence is given to the contrary proof is not required of —
 - (i) the constitution of a producers' committee;
 - (ii) the constitution of the Commission;
 - (iii) any resolution of the Commission or producers' committee;
 - (iv) the appointment of any member or of the Commission or of a producers' committee;

and

- (b) production of a copy of the *Gazette* or a newspaper containing or purporting to contain a copy of any notice or advertisement published under this Act is —
 - (i) evidence of the matters contained in the notice or advertisement; and
 - (ii) evidence that all steps necessary to be taken prior to the publication of the notice or advertisement were duly taken;

and

- (c) an averment on behalf of the Commission —
 - (i) that any agricultural produce is or was, during a specified period, agricultural produce to which this Act applies or applied as the case requires; or
 - (ii) that any area or place is or was an area or place or is or was during a specified period within an area specified in a notice or advertisement; or
 - (iii) that any person is or was a producer during a specified period of agricultural produce,

is until the contrary is proved evidence of that fact; and

- (d) a certificate —
 - (i) signed or purporting to be signed by a prescribed officer of the Commission;
 - (ii) certifying that on a specified day or during a specified period any person was or was not included in a list of producers of agricultural produce compiled under this Act,

is, without proof of the signature of the person purporting to sign the certificate or that the person is a prescribed officer, evidence of the matters certified in and by the certificate.

[Section 23 amended: No. 20 of 2000 s. 28, 29, 30 and 31.]

24. Protection from liability~~Protection of members~~

(1) In this section —

officer or employee —

(a) in relation to the Commission —

(i) means a person employed or engaged by the Commission; and

(ii) includes an authorised officer;

and

(b) in relation to a producers' committee — means a person employed or engaged by a producers' committee.

(2) A person ~~A person~~ who is or was a member of the Commission or a producers' committee, or an officer or employee of the Commission or producers' committee is not personally liable for any act done or omitted to be done in good faith by the Commission or a producers' committee or by the person ~~him~~ acting as a member of the Commission or producers' committee or as an officer or employee of the Commission or a producers' committee.

[Section 24 amended: No. 20 of 2000 s. 31; Agricultural Produce Commission Amendment Bill 2021 cl. 29.]

25. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting the generality of subsection (1) the regulations may —
 - (a) prescribe the method of determining the eligibility of producers to be regarded as producers for the purposes of this Act; and
 - (b) provide for the taking of any poll including the method of voting at a poll and determining the manner in which the results of a poll shall be ascertained; and

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- (c) prescribe matters concerning the compilation and revision of lists of names of producers; and
- (d) prescribe the manner in which the results of a poll taken under this Act shall be notified; and
- (e) require that for the purposes of this Act information relating to agricultural produce be furnished to prescribed persons or organisations; and ~~organizations;~~
~~and~~
- (ea) prescribe the manner in which charges imposed under this Act shall be paid and collected and the persons to whom the charges shall be paid or by whom the charges shall be collected; and
- (f) prescribing penalties not exceeding \$2 000 for any breach of the regulations.

[Section 25 amended: No. 29 of 1993 s. 7; No. 20 of 2000 s. 24 and 30; [Agricultural Produce Commission Amendment Bill 2021 cl. 30.](#)]

~~**26. — Review**~~

- ~~(1) Within a period of 12 months commencing on the fifth anniversary of the day on which the *Horticultural Produce Commission Amendment Act 2000* comes into operation the Minister shall cause an investigation and review to be conducted, and a report to be prepared as to—~~
 - ~~(a) the operation of this Act; and~~
 - ~~(b) the operation of the Commission and any producers' committee; and~~
 - ~~(c) the need for this Act to continue in operation.~~

- ~~(2) The Minister shall cause a copy of the report prepared for the purposes of subsection (1) to be laid before each House of Parliament as soon as is practicable after it is completed.~~

~~*[Section 26 amended: No. 20 of 2000 s. 25 and 31.]*~~

~~*[27. — Omitted under the Reprints Act 1984 s. 7(4)(e).]*~~

[26, 27. Deleted: [Agricultural Produce Commission Amendment Bill 2021 cl. 31.](#)]

Schedule — The Commission and its proceedings

[s. 5(6)]

[Heading inserted: No. 19 of 2010 s. 7.]

1. Term of office of member of Commission

Subject to this Schedule, a member of the Commission shall be appointed for such period not exceeding 3 years as is specified in the instrument of appointment of that member.

2. Remuneration of member of Commission

A member of the Commission other than a member who is an officer of the Public Service of the State or the Commonwealth is entitled to be paid such remuneration and allowances as the Minister, on the recommendation of the Public Sector Commissioner, determines.

[Clause 2 amended: No. 20 of 2000 s. 26(1); No. 39 of 2010 s. 89.]

3. Casual vacancies

Where an office of member of the Commission becomes vacant the Minister shall, subject to this Act, fill the vacancy.

4. Vacation of office

The office of a member becomes vacant if the member —

- (a) dies; or
- (b) is absent from 4 consecutive meetings of the Commission without the permission of the Minister; or
- (c) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (d) is removed from office by the Minister on the ground that the member is mentally or physically incapable of performing the duties of a member or for incompetence, neglect of duty or misconduct proved to the satisfaction of the Minister.

[Clause 4 amended: No. 18 of 2009 s. 7.]

5. Disclosure

- (1) A member of the Commission who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose his or her interest at a meeting of the Commission.

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- (2) A disclosure under subclause (1) shall be recorded in the minutes of the meeting of the Commission and the member shall not unless the meeting otherwise determines —
 - (a) be present during any deliberation by the Commission with respect to that matter; or
 - (b) take part in any decision of the Commission with respect to that matter.

- (3) For the purpose of making a determination by the Commission under subclause (2) in relation to a member who has made a disclosure under subclause (1), a member who has a direct or indirect interest in the matter to which the disclosure relates shall not —
 - (a) be present during any deliberation of the Commission for the purpose of making the determination; or
 - (b) take part in the making by the Commission of the determination.

6. Meetings

- (1) The first meeting of the Commission shall be convened by the chairperson of the Commission and thereafter, subject to subclause (2), shall be held at such times and places as the Commission determines.
- (2) A special meeting of the Commission may at any time be convened by the chairperson of the Commission.
- (3) The chairperson of the Commission shall preside at any meeting of the Commission at which the chairperson is present and in the absence of the chairperson, the members present shall elect one of their number to preside.
- (4) At any meeting of the Commission 3 members constitute a quorum.
- (5) At any meeting of the Commission the member presiding at the meeting shall have a deliberative vote, and in the case of an equality of votes being cast on any question, shall have a casting vote.

[Clause 6 amended: No. 20 of 2000 s. 26(2).]

7. Resolution without meeting

A resolution in writing signed or assented to by letter, or electronic means of communication by each member of the Commission shall be as valid and effectual as if it had been passed at a meeting of the Commission.

8. Procedures of Commission

Except to the extent that they are prescribed, the Commission shall determine its own procedures.

9. Validity of acts of Commission

No act, proceeding or decision of the Commission shall be invalid on the ground of any vacancy in the office of any member of the Commission or of any defect in the appointment of any member of the commission.

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Agricultural Produce Commission Act 1988

Notes

This is a compilation of the *Agricultural Produce Commission Act 1988* and includes the amendments made by the other written laws referred to in the following table². The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Horticultural Produce Commission Act 1988</i> ³	75 of 1988	23 Dec 1988	s. 1 and 2: 23 Dec 1988; Act other than s. 1 and 2: 1 Sep 1989 (see s. 2 and <i>Gazette</i> 1 Sep 1989 p. 3017)
<i>Horticultural Produce Commission Amendment Act 1993</i>	29 of 1993	15 Dec 1993	15 Dec 1993 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Agricultural Legislation Amendment and Repeal Act 1998</i> Pt. 6	9 of 1998	30 Apr 1998	4 Jul 1998 (see s. 2 and <i>Gazette</i> 3 Jul 1998 p. 3581)
<i>Horticultural Produce Commission Amendment Act 2000</i> ⁴	20 of 2000	30 Jun 2000	s. 1 and 2: 30 Jun 2000; Act other than s. 1 and 2: 11 Aug 2000 (see s. 2 and <i>Gazette</i> 11 Aug 2000 p. 4691)
Reprint of the <i>Agricultural Produce Commission Act 1988</i> as at 5 Apr 2002 (includes amendments listed above)			
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 5 ⁵	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 2 Div. 1	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Financial Legislation Amendment and Repeal Act 2006</i> Sch. 1 cl. 3	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> s. 63	24 of 2007	12 Oct 2007	1 May 2013 (see s. 2(2) and <i>Gazette</i> 5 Feb 2013 p. 823-4)
Reprint 2: The <i>Agricultural Produce Commission Act 1988</i> as at 1 May 2009 (includes amendments listed above except those in the <i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i>)			
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 7	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))

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<i>Standardisation of Formatting Act 2010</i> s. 7	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Public Sector Reform Act 2010</i> s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
Reprint 3: The Agricultural Produce Commission Act 1988 as at 14 Jun 2013 (includes amendments listed above)			
Agricultural Produce Commission Amendment Bill 2021	Current Bill No. 18-2		

Other notes

- ¹ The provision in this Act amending these Acts has been omitted under the *Reprints Act 1984* s. 7(4)(e).
- ² The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 3 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).
- ³ Now known as the *Agricultural Produce Commission Act 1988*; short title changed (see note under s. 1).
- ⁴ The *Horticultural Produce Commission Amendment Act 2000* s. 32 and 34 read as follows:

32. Validation

- (1) Any appointment made after the commencement of the *Plant Diseases Amendment Act 1993* and before the commencement of this Act to a growers' committee by the Commission purporting to act under section 11 of the *Horticultural Produce Commission Act 1988* is hereby validated and declared to have been lawfully made.
- (2) Any act or thing done after the commencement of the *Plant Diseases Amendment Act 1993* and before the commencement of this Act by a growers' committee purporting to act under the *Horticultural Produce Commission Act 1988* that would have been lawful if this Act had been in force at the time when it was done is hereby validated and declared to have been lawfully done.

34. Transitional

- (1) On the commencement of this Act the account known as the Horticultural Produce Commission Account established under section 7 of the *Horticultural Produce Commission Act 1988* is continued in existence under the name the Agricultural Produce Commission Account.
- (2) If immediately before the commencement of this Act a committee established under section 11 of the *Horticultural Produce Commission Act 1988* is in existence then on commencement —
 - (a) the committee continues in existence; and
 - (b) the name of the committee is deemed to have “Producers” substituted for “Growers”.

- (3) If the procedure for establishing a growers' committee under the *Horticultural Produce Commission Act 1988* has been initiated but has not been completed before the commencement of this Act, that procedure may continue to be followed and be completed after the commencement of this Act as if this Act had not come into operation but if a committee is established under that procedure it is established as a producers' committee with a name containing "Producers'" instead of "Growers'".

⁵ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.