

# AUSTRALIAN CAPITAL TERRITORY

503

No. 44 of 1975

## EGG INDUSTRY ORDINANCE 1975

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No. 44 of 1975

AN ORDINANCE

Relating to the Egg Industry.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this twenty-seventh day of November, 1975.

JOHN R. KERR  
Governor-General.

By His Excellency's Command,

R. G. WITHERS  
Minister of State for the Capital Territory.

EGG INDUSTRY ORDINANCE 1975

- 1. This Ordinance may be cited as the *Egg Industry Ordinance* Short title.  
1975.\*
- 2. This Ordinance shall come into operation on a date to be fixed Commence-  
by the Minister by notice published in the *Gazette*. ment.
- 3. (1) In this Ordinance, unless the contrary intention appears— Interpretation.
  - “broiler chicken” means a chicken that is to be used otherwise than for producing eggs;
  - “company” has the same meaning as in the *Companies Ordinance 1962-1974*;
  - “hen” means a female domesticated fowl—
    - (a) that is not less than 6 months old; and
    - (b) that is not used for the purpose of producing broiler chickens;
  - “inspector” means a person holding office by virtue of an appointment under section 6;
  - “levy day” means a day that is a prescribed day for the purpose of the *Poultry Industry Levy Act 1965-1966*;
  - “licence” means a licence granted under this Ordinance;
  - “licensee” means the holder of a licence;
  - “related corporation” has the same meaning as in the *Companies Ordinance 1962-1974*;

\* Notified in the *Australian Government Gazette* on 28 November 1975.

“Secretary” means the Secretary to the Department of the Capital Territory;

“Territory quota” means the quota fixed in pursuance of sub-section 13 (1).

(2) For the purpose of sub-section 16 (11), a person shall be taken to be the holder of a licence if—

- (a) that person is in a position to control the exercise of rights to cast not less than two-fifths of the votes that may be cast in respect of shares in a company that is the holder of a licence; or
- (b) that person holds not less than two-fifths of the issued share capital of a company that is the holder of a licence.

(3) For the purpose of sub-section 16 (11), a company shall be taken to be the holder of a licence if—

- (a) the holder of a licence, or, if a licence is held by a company, a related corporation, is in a position to control the exercise of rights to cast not less than two-fifths of the votes that may be cast in respect of shares in that company; or
- (b) not less than two-fifths of the issued share capital of the company is held by the holder of a licence or, where a licence is held by a company, a related corporation.

(4) For the purposes of this Ordinance, a person shall, unless the contrary is proved, be deemed to be the keeper of hens—

- (a) that are in his possession or control; or
- (b) that are on premises of which he is the lessee or a sub-lessee.

**4. This Ordinance does not apply to the Jervis Bay Territory.**

Ordinance  
not to apply  
to Jervis  
Bay  
Territory.

**5. (1) The Secretary may, by instrument in writing, appoint a person to be the Egg Industry Officer for the purposes of this Ordinance.**

Appoint-  
ment of  
Egg  
Industry  
Officer.

(2) The Egg Industry Officer has all the powers, and may perform all the functions, of an inspector under this Ordinance, and the provisions of this Ordinance relating to an inspector apply to, and in relation to, the Egg Industry Officer accordingly.

(3) Sub-section 7 (4) applies to, and in relation to, the Egg Industry Officer as if a certificate issued under sub-section (6) of this section were a certificate issued under sub-section 6 (2).

(4) The Secretary may, by instrument in writing, appoint a person to be the Deputy Egg Industry Officer for the purposes of this Ordinance.

(5) Subject to the directions of the Egg Industry Officer and to any restrictions or limitations expressed in the instrument of his appointment, the Deputy Egg Industry Officer has the powers, and may exercise the functions, of the Egg Industry Officer.

(6) The Secretary shall issue to the Egg Industry Officer and the Deputy Egg Industry Officer a certificate certifying that the person named in the certificate is the Egg Industry Officer or the Deputy Egg Industry Officer, as the case may be.

(7) In the performance of his functions under this Ordinance, the Egg Industry Officer shall comply with any directions given to him by the Secretary.

6. (1) The Secretary may, by instrument in writing, appoint such persons as he considers necessary to be inspectors for the purposes of this Ordinance. Appointment of inspectors.

(2) Where a person is appointed an inspector, the Secretary shall issue to that person a certificate certifying that that person is an inspector for the purposes of this Ordinance.

7. (1) Subject to this Ordinance, an inspector may enter and inspect any land or premises if he has reasonable grounds for believing that the land is, or the premises are, used for the production of eggs for commercial purposes. Powers of inspectors.

(2) Where an inspector finds that land is, or premises are, used for the production of eggs for commercial purposes, the inspector may, by notice in writing given to any person by whom hens are kept on the land or premises, require that person to produce to the inspector any records in the custody or control of that person relating to the production of eggs on the land or premises.

(3) An inspector may make copies of records produced to him in accordance with a requirement under sub-section (2) and, for that purpose, may retain the records for such period, not exceeding 7 days, as he thinks fit.

(4) An inspector who enters upon land or premises in pursuance of this section is not authorized to remain on the land or premises if, on request by the occupier of the land or premises, he does not produce a certificate issued to him for the purpose of sub-section 6 (2).

(5) A person who, without reasonable excuse—

- (a) refuses or fails to comply with a requirement under sub-section (2) within 21 days after the requirement was made; or
- (b) obstructs or delays an inspector acting in pursuance of this section,

is guilty of an offence and punishable, upon conviction, by a fine not exceeding \$200.

(6) Nothing in this section authorizes an inspector to enter a dwelling-house.

8. (1) Subject to this Ordinance, after the expiration of a period of 30 days after the date on which a notice is published in accordance with section 9, a person shall not keep more than 200 hens unless he is the holder of a licence. Hens not to be kept except in accordance with licence.

Penalty: \$500.

(2) The holder of a licence shall not keep hens in excess of the number specified in the licence.

Penalty: \$500.

(3) The holder of a licence shall not, on a parcel of land other than a parcel specified in the licence, keep hens for the production of eggs for commercial purposes.

Penalty: \$500.

Notice  
inviting  
applications  
for licences.

9. As soon as is reasonably practicable after the date of commencement of this Ordinance, the Egg Industry Officer shall cause to be published in a daily newspaper published in the Territory a notice specifying the place at which applications for licences under this Ordinance may be lodged with the Egg Industry Officer.

Application  
for licence.

10. (1) An application for a licence under section 11 shall be in writing and shall—

- (a) specify the parcel of land upon which hens are to be kept by the applicant; and
- (b) be signed by the applicant or by a person authorized by the applicant in writing to sign the application on behalf of the applicant.

(2) An application that is left with a person at an address specified in a notice published in accordance with section 9 as a place at which applications for licences may be lodged, being a person apparently employed at that place, shall be deemed to have been lodged with the Egg Industry Officer.

(3) Where an application has been made for a licence, the Egg Industry Officer may, by notice in writing given to the applicant, require the applicant, within the period specified in the notice, to furnish the Egg Industry Officer with such information in writing, and such documents, relating to the keeping of hens by the applicant as are specified in the notice.

(4) The period specified in a notice for the purpose of sub-section (3) shall be a period not less than 14 days.

Grant of  
licence.

11. (1) Where—

- (a) a person has made an application for a licence in accordance with section 10;
- (b) the person has complied with any requirement made by the Egg Industry Officer under sub-section 10 (3);
- (c) the person kept hens on the parcel of land specified in the application at any time during the period from and including 1 July 1965 to and including 18 September 1974;

- (d) the greatest number of hens so kept by that person on any levy day during the period referred to in paragraph (c) exceeded 200; and
- (e) that person was keeping hens on that parcel of land immediately before the commencement of this Ordinance,

the Egg Industry Officer shall grant a licence to that person.

(2) A licence granted under this section shall—

- (a) be in writing in a form approved by the Secretary;
- (b) be signed by the Egg Industry Officer;
- (c) specify the number of hens that may be kept by the licensee; and
- (d) specify the parcel of land on which those hens may be so kept.

**12.** The number of hens to be specified in a licence granted under section 11 is the number that equals the greatest number of hens kept by the applicant on the parcel of land specified in the application for the licence on any levy day during the period referred to in paragraph 11 (1) (c). Deter-  
mination  
of flock  
numbers.

**13.** (1) The Minister may, by notice published in the *Gazette*, fix a number of hens as the quota of hens for the Territory for the purposes of this Ordinance. Quota  
for the  
Territory.

(2) Where—

- (a) the lease of the parcel of land specified in a licence has been determined by Australia in pursuance of a provision of the lease;
- (b) the aggregate of the numbers of hens specified in all licences in force is less than the Territory quota; and
- (c) the holder of the licence referred to in paragraph (a) has agreed to take from Australia a lease of another parcel of land,

the Egg Industry Officer shall grant a licence to that person.

(3) A licence granted under this section shall—

- (a) be in writing in a form approved by the Secretary;
- (b) be signed by the Egg Industry Officer;
- (c) specify the number of hens that may be kept by the licensee; and
- (d) specify the parcel of land on which those hens may be so kept.

(4) The number of hens to be specified in a licence granted under this section is such number as the Egg Industry Officer thinks fit to

specify, being a number that does not exceed the number by which the aggregate of the numbers of hens specified in all licences in force on the date on which the licence is granted is less than the Territory quota.

Cancellation of licence where licensee ceases to keep hens.

**14.** (1) Where the Egg Industry Officer has reasonable grounds for believing that a licensee has ceased to keep hens on the parcel of land specified in his licence, the Egg Industry Officer may, by notice in writing given to the licensee, require the licensee to show cause why his licence should not be cancelled.

(2) Where notice is given to a licensee under sub-section (1), the licensee may, within 21 days after the date on which notice is so given, give to the Egg Industry Officer a notice or notices in writing setting forth any matters that the licensee wishes to bring to the attention of the Egg Industry Officer in relation to the notice given under sub-section (1).

(3) Where—

- (a) a notice has been given to a licensee under sub-section (1);
- (b) a period of 21 days has elapsed since the notice was given; and

(c) either—

- (i) the licensee has failed to give a notice to the Egg Industry Officer in accordance with sub-section (2); or
- (ii) notwithstanding the matters contained in the notice or notices given in accordance with sub-section (2), the Egg Industry Officer is satisfied that the licensee has ceased to keep hens on the parcel of land specified in his licence.

the Egg Industry Officer shall cancel the licence.

(4) Subject to this Ordinance, cancellation of a licence has effect on and from the expiration of the period of 30 days after the date on which notice in writing of the cancellation is given to the licensee.

Variation of licence where flock reduced.

**15.** (1) Where the Egg Industry Officer has reasonable grounds for believing that the average number of hens kept by a licensee on the parcel of land specified in his licence on all levy days during a period of 6 months has been less than four-fifths of the number specified in the licence, the Egg Industry Officer may, by notice in writing given to the licensee before the expiration of a period of 28 days after the expiration of that period of 6 months, require the licensee to show cause why the number of hens specified in his licence should not be reduced.

(2) Where notice is given to a licensee under sub-section (1), the licensee may, within 21 days after the date on which notice is so given, give to the Egg Industry Officer a notice or notices in writing setting forth any matters that the licensee wishes to bring to the attention of the Egg Industry Officer in relation to the notice given under sub-section (1).

## (3) Where—

- (a) a notice has been given to a licensee under sub-section (1);
- (b) a period of 21 days has elapsed since the notice was given; and
- (c) either—
  - (i) the licensee has failed to give a notice to the Egg Industry Officer in accordance with sub-section (2); or
  - (ii) notwithstanding the matters contained in the notice or notices given in accordance with sub-section (2), the Egg Industry Officer is satisfied that the average number of hens kept by the licensee on the parcel of land specified in his licence on all levy days during a period of 6 months was less than four-fifths of the number specified in the licence,

the Egg Industry Officer may vary the licence by reducing the number of hens specified in the licence by a number not exceeding one-fifth of the number specified in the licence.

(4) The Egg Industry Officer shall not reduce the number of hens specified in a licence if the failure of the licensee to keep that number of hens was due to circumstances not reasonably within the control of the licensee.

(5) Subject to this Ordinance, a variation of a licence in pursuance of sub-section (3) has effect on and from the expiration of the period of 30 days after the date on which notice in writing of the variation is given to the licensee.

**16. (1) A licence does not expire on the death of the licensee.**

Death of licensee.

(2) After the death of a licensee, an act which, if it had been done by the licensee, would not have constituted an offence against this Ordinance does not constitute an offence against this Ordinance if it is done by a person for the benefit of the estate of the licensee.

## (3) Where—

- (a) a licensee has died; and
- (b) probate of the will of the licensee is granted,

the licence has effect, on and from the date of the grant of probate, as if, for the name of the licensee, the name of the executor of the will of the licensee were substituted.

## (4) Where—

- (a) a licensee has died; and
- (b) letters of administration of the estate of the licensee are granted,

the licence has effect, on and from the date of the grant of letters of administration, as if, for the name of the licensee, the name of the administrator of the estate of the licensee were substituted.



(5) A person to whom a grant is made of probate of the will, or letters of administration of the estate, of a licensee shall, before the expiration of 14 days after the date of the grant, give to the Egg Industry Officer notice in writing of the grant and of the date of the grant.

Penalty: \$50.

(6) Where—

- (a) the executor of the will of a deceased licensee has, by notice in writing given to the Egg Industry Officer, requested that a licence be granted to a person, not being a corporation; and
- (b) the Egg Industry Officer is satisfied—
  - (i) that the person is a beneficiary under the will of the deceased licensee; and
  - (ii) that the person is a fit and proper person to be the holder of a licence,

the Egg Industry Officer shall grant a licence to that person.

(7) Where—

- (a) the administrator of the estate of a deceased licensee has, by notice in writing given to the Egg Industry Officer, requested that a licence be granted to a person, not being a corporation; and
- (b) the Egg Industry Officer is satisfied—
  - (i) that the person is entitled to share in the distribution of the estate of the deceased licensee; and
  - (ii) that the person is a fit and proper person to be the holder of a licence,

the Egg Industry Officer shall grant a licence to that person.

(8) A licence granted under sub-section (6) or (7) shall—

- (a) be in writing in a form approved by the Secretary;
- (b) be signed by the Egg Industry Officer;
- (c) specify the number of hens that may be kept by the licensee; and
- (d) specify the parcel of land on which those hens may be so kept.

(9) The number of hens to be specified in a licence granted under sub-section (6) or (7) is the number specified in the licence held by the deceased licensee.

(10) The parcel of land to be specified in a licence granted under sub-section (6) or (7) as the parcel of land on which hens may be kept is the parcel specified in the licence held by the deceased licensee.

(11) The Egg Industry Officer shall not grant a licence under sub-section (6) or (7) to a person who is already the holder of a licence.

(12) Where an order is made under section 88 of the *Administration and Probate Ordinance 1929-1974* in respect of the estate of a deceased licensee, this Ordinance has effect as if—

- (a) an order under that section with a copy of the will of the deceased person annexed to it were a grant to the Curator of Estates of Deceased Persons of administration with the will annexed; and
- (b) any other order under that section were a grant to the Curator of letters of administration.

17. (1) Where a licensee has entered into a contract for the sale of his business of egg production, the purchaser under that contract may make application in writing to the Egg Industry Officer for a licence. Sale of business.

(2) Where an application has been made under sub-section (1), the Egg Industry Officer may, by notice in writing given to the applicant, require the applicant, within the period specified in the notice, to furnish the Egg Industry Officer with such information in writing, and such documents, in connexion with the application as are specified in the notice.

(3) The period specified in a notice for the purpose of sub-section (2) shall be a period not less than 14 days.

(4) Subject to sub-section (5), where—

- (a) an application has been made under sub-section (1);
- (b) the applicant has not, within the period of 5 years immediately preceding the date on which the application was made, been the holder of a licence that was cancelled under section 18;
- (c) in the case of an applicant other than a company, the Egg Industry Officer is satisfied that the applicant is a fit and proper person to be the holder of a licence; and
- (d) the applicant has complied with any requirement made by the Egg Industry Officer under sub-section (2),

the Egg Industry Officer shall grant a licence to the applicant.

(5) The Egg Industry Officer shall not grant a licence under this section to a person if—

- (a) the licence held by the person whose business of egg production the applicant has contracted to purchase has been cancelled under section 18; or
- (b) notice has been given to that person under section 18 and the period of 21 days after the date on which the notice was given has not expired.

(6) A licence granted under this section shall—

- (a) be in writing in a form approved by the Secretary;
- (b) be signed by the Egg Industry Officer;
- (c) specify the number of hens that may be kept by the licensee; and
- (d) specify the parcel of land on which those hens may be so kept.

(7) The number of hens to be specified in a licence granted under this section is the number specified in the licence held by the licensee referred to in sub-section (1).

(8) Subject to sub-section (9), the parcel of land to be specified in a licence for the purpose of sub-section (6) is—

- (a) the parcel of land held by the licensee referred to in sub-section (1); or
- (b) if the applicant, in his application for the licence, has specified another parcel of land for the purpose of this sub-section—that parcel of land.

(9) The Egg Industry Officer is not required by sub-section (4) to grant to a person a licence specifying a parcel of land as the parcel of land on which hens may be kept in pursuance of the licence if the use of that parcel for the keeping of hens is not permitted by the terms of the lease of the parcel.

(10) A licence granted under this section takes effect immediately upon the expiration of the licence held by the licensee referred to in sub-section (1).

Cancellation  
of licence  
where  
offence  
committed.

**18.** (1) Where a licensee commits an offence against this Ordinance or commits an offence against a law in force in the Territory in relation to a statement made in, or in connexion with, an application for a licence, the Egg Industry Officer may, by notice in writing given to the licensee, require the licensee, within a period of 21 days after the date on which the notice is given, to show cause why his licence should not be cancelled.

(2) If a licensee fails, within the period specified in a notice under sub-section (1), to show cause to the satisfaction of the Egg Industry Officer, the Egg Industry Officer may cancel the licence held by the licensee.

(3) Subject to this Ordinance, the cancellation of a licence in pursuance of sub-section (2) has effect on and from the expiration of the period of 30 days after the date on which notice in writing of the cancellation is given to the licensee.

Appeal.

**19.** (1) A person who has been refused a licence may appeal to the Supreme Court.

(2) A licensee whose licence has been cancelled, or whose licence has been varied, otherwise than in pursuance of section 20, may appeal to the Supreme Court.

(3) A person whose request that the Minister give a direction under sub-section 20 (2) has been refused may appeal to the Supreme Court.

(4) A licensee who is dissatisfied with a direction given under sub-section 20 (2) in respect of the licence held by him may appeal to the Supreme Court.

(5) An appeal shall be instituted—

- (a) in the case of an appeal under sub-section (1) or (3)—  
within 30 days after the date on which notice in writing of the refusal was given to the appellant;

- (b) in the case of an appeal under sub-section (2)—before the cancellation or variation takes effect; and
- (c) in the case of an appeal under sub-section (4)—within 30 days after the date on which notice of the decision of the Minister was given to the appellant.

(6) The Supreme Court has jurisdiction to hear and determine appeals under this section.

(7) An appeal under this section shall be in the nature of a rehearing.

(8) The Minister shall be the respondent to an appeal under sub-section (3) or (4).

(9) On an appeal under this section, the Supreme Court may affirm, set aside or vary the decision to which the appeal relates.

(10) Where an appeal is instituted in accordance with this section against the cancellation or variation of a licence, the cancellation or variation does not become effective except in accordance with the order of the Supreme Court.

- 20.** (1) The Egg Industry Officer may, at the request of a licensee—
- (a) cancel a licence held by the licensee; or
  - (b) vary the licence by reducing the number of hens specified in the licence to a number specified by the licensee.

Cancellation or variation of licence at request of licensee.

(2) The Minister may, at the request of a licensee, direct the Egg Industry Officer to vary the licence held by the licensee by substituting for the number of hens specified in the licence the number specified in the direction.

(3) The Minister shall not give a direction under sub-section (2) if the variation of the licence in accordance with the direction would cause the aggregate of the numbers of hens specified in all licences in force to exceed the Territory quota.

(4) The Minister shall not give a direction under sub-section (2) unless—

- (a) the unexpired portion of the term of the lease of the parcel of land specified in the licence is not less than 3 years;
- (b) the average number of hens kept by the licensee on the parcel of land specified in the licence on all levy days during the period of 6 months immediately preceding the making of the request for the direction has not been less than four-fifths of the number specified in the licence;
- (c) there are reasonable grounds for believing that, if the direction were given, the licensee would be able to make use of the increased number of hens;
- (d) the licensee has sold eggs in the Territory within the period of 12 months immediately preceding the making of the request for the direction; and

(e) the giving of the direction is not likely to result in detriment to the interests of consumers in the Territory.

(5) The Egg Industry Officer shall comply with a direction given under sub-section (2).

(6) The cancellation or variation of a licence under this section has effect forthwith.

Licence not to be granted to company unless incorporated in the Territory.

21. The Egg Industry Officer shall not grant a licence to a body corporate other than a company.

Notice of refusal of licence.

22. Where the Egg Industry Officer refuses to grant a licence to a person, he shall forthwith give notice in writing of the refusal to that person.

Documents may be lodged by post.

23. A document that is required or permitted by this Ordinance to be given to, or lodged with, a person may be so given or lodged by post.

Egg Industry Officer may demand information.

24. (1) In this section, "prescribed person" means—

(a) a licensee; or

(b) a person who conducts a business that includes the storage or sale of eggs.

(2) The Egg Industry Officer may, by notice in writing given to a prescribed person, require that person to give to the Egg Industry Officer, in writing and within the period specified in the notice, such information relating to the business conducted by that person as is specified in the notice.

(3) The period specified in a notice for the purpose of sub-section (2) shall be a period not less than 14 days.

(4) The Egg Industry Officer is not authorized to give more than one notice under sub-section (2) to a person in the same month.

(5) A person to whom a notice is given under sub-section (2) shall comply with the requirement of the notice.

Penalty: \$200.

(6) It is a defence to a prosecution for an offence against sub-section (5) that the information required by the notice was not relevant to the performance by the Egg Industry Officer of his functions under this Ordinance.

Licensee companies to give information.

25. A company that is the holder of a licence shall, before the expiration of a period of 12 months after it became the holder of a licence, and thereafter at intervals of not more than 12 months, give to the Egg Industry Officer a notice in writing setting forth the name and address of each shareholder in the company.

Penalty: \$200.

**26.** The Minister may make regulations, not inconsistent with this **Regulations.** Ordinance, prescribing all matters that are required or permitted by this Ordinance to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.