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SPECIAL

Agricultural Industry Development Act 1990

NORTHERN VICTORIAN FRESH TOMATO INDUSTRY DEVELOPMENT ORDER 2000

Citation

1. This Order may be cited as the Northern Victorian Fresh Tomato Industry Development Order 2000.

Order made under the **Agricultural Industry Development Act 1990**.

2. This Order is made under Part 2 of the **Agricultural Industry Development Act 1990**.

Purposes of Order

3. The purposes of this Order are to set up a Committee to -
 - (a) carry out or fund research into the breeding, production, handling or marketing of fresh tomatoes; and
 - (b) facilitate domestic and export marketing of fresh tomatoes.

Definitions

4. In this Order

“Act” means the **Agricultural Industry Development Act 1990**.

“Committee” means the Northern Victorian Fresh Tomato Industry Development Committee.

“Container” means a new fibre board, fibre-board composite or styrene foam container of 10 kilogram capacity for the packaging of fresh tomatoes.

“Fresh tomatoes” means tomatoes grown or produced for sale for fresh consumption.

“Grower” means -

- (a) a person by whom, or on whose behalf, fresh tomatoes are commercially grown or produced in the production area for sale; and
- (b) where fresh tomatoes are commercially grown or produced in the production area for sale by a partnership or under a share farming agreement, the partnership or the parties to that agreement - but does not include a person engaged as a employee on wages, a salary or piece work rates.

“Minister” means the Minister administering the Act.

“Packaging manufacturers” means all manufacturers or suppliers of cartons used by northern Victorian tomato growers for the sale of fresh tomatoes.

“Production area” means the areas within the Shires of Campaspe, Greater Bendigo, Greater Shepparton, Loddon, Moira and Strathbogie.

Term of Order

5. This Order commences on the day of the date of its publication in the Government Gazette and remains in force for four years from that date.

Establishment of Committee

6. There shall be a “Northern Victorian Fresh Tomato Industry Development Committee”, which shall be the successor in law of the Committee established by the Northern Victorian Fresh Tomato Industry Development Order 1999.

Members

7. The Committee shall consist of seven members appointed by the Minister being -
 - (a) four voting grower members nominated by the Northern Victorian Fresh Tomato Growers' Association or any other relevant body that, in the opinion of the Minister, has replaced that body; and

- (b) two voting non-grower members nominated by the Northern Victorian Fresh Tomato Growers' Association, or any other relevant body that in the opinion of the Minister has replaced that body, who possess specialist expertise appropriate to the needs of the fresh tomato industry in the fields of industry development, business administration, marketing or promotion; and
- (c) one voting member nominated by the Secretary of the Department of Natural Resources and Environment.

Chairperson

- 8. The voting members of the Committee must elect a voting member of the Committee to be Chairperson of the Committee for a period of 12 months. The Chairperson must not be an office bearer of the Northern Victorian Fresh Tomato Growers' Association.

Functions of Committee

- 9. The Committee may -
 - (a) carry out or fund research into the breeding, production, handling or marketing of fresh tomatoes and advise growers about research findings; and
 - (b) facilitate the domestic and export marketing of fresh tomatoes grown in the production area.

Powers of Committee

- 10. The Committee may -
 - (a) impose a charge on all growers for services it provides;
 - (b) delegate any of its powers, duties or functions (other than the power of delegation) to an employee of the Committee;
 - (c) exempt by written notice, either conditionally or unconditionally, a person or class of persons from compliance with some or all of the requirements of this Order.

Plan of Operation

- 11. The Committee must within the first 12 months of its operation produce a Plan of Operation to establish the goals and objectives of the Committee for the term of the Order. This Plan will provide the basis for the development of projects and will include indicators against which the performance of the Committee may be measured.
- 12. In determining the goals and objectives to be included in a Plan of Operation, the Committee must have regard to any which have been adopted by the Northern Victorian Fresh Tomato Growers' Association.
- 13. The Plan of Operation must be published by the Committee and made available to growers on request.

Charge Imposed by Committee

- 14. A charge for services provided by the Committee is payable by growers at the point and time of purchase of containers from packaging manufacturers, and is to be collected by packaging manufacturers by arrangement with and on behalf of the Committee.
- 15. The first charge imposed by the Committee shall be at the uniform rate of three cents per container and shall remain in force until the end of the financial year during which it was imposed.
- 16. A charge imposed by the Committee must not at any time during the term of the Order exceed the rate of five cents per container.

Procedure for Determining the Charge

- 17. The charge for services provided by the Committee for the following financial year must be based on budgeted projects, financial reserves and projected purchases of containers, each of

which must be approved by a majority of votes cast by growers in-person or by proxy at the Annual General Meeting or other general meeting of the Committee.

18. Recommendations of the Committee on projects and financial reserve for the following year must be notified in writing to all growers at least 14 days prior to the Annual General Meeting or general meeting.
19. Recommendations of the Committee on each proposed project must include details of the project objectives and methodology, project leader, project duration and outputs, and a budget specifying the proportion of the total project cost to be funded from the compulsory charge.
20. The recommendation of the Committee on financial reserves must include reasons for the retention of funds raised from the compulsory charge.

Distribution of Proceeds of Charge

21. The Committee must apply the proceeds of a charge in accordance with its functions, the Plan of Operation, and the projects approved by growers at the Annual General Meeting or other general meeting of the Committee.

Payment into Funds

22. The Committee must establish a financial accounting system which has:
 - (a) a general fund; and
 - (b) a project fund for each project that is approved by growers.
23. The Committee must pay into a Committee's project fund all charges, fees and other money received by the Committee in connection with that project.
24. The Committee must pay into the Committee's general fund:
 - (a) all money received by the Committee that is not required to be paid into a project fund, and
 - (b) all interest received in respect of the investment of money belonging to the general and project funds.

Payment from Funds

25. The Committee must pay from a Committee's fund:
 - (a) all money paid on account of the Committee or otherwise required to meet the Committee's expenditure in connection with that fund, and
 - (b) such part of the remuneration (including allowances) of the members and staff of the committee as are referable to that fund.

Internal transfer between funds

26. If at any time during a financial year the Committee recommends that a new project be undertaken or anticipates that payments from a project fund will exceed the amount approved by growers, money held by the Committee in any of its funds may be transferred to any other of the Committee's funds, or to a new project fund for a new approved project, only if approved by a majority of votes cast by growers in person or by proxy at a general meeting of the Committee. Recommendations of the Committee on such transfers must be notified in writing to all growers at least 14 days prior to the general meeting.
27. In granting such an approval, the growers may impose conditions on the transfer and the Committee must comply with the requirements imposed by the conditions of the approval.

Voting

28. For the purpose of voting in accordance with sections 17 and 26 of this Order, growers shall be allocated one vote for each 100,000 (or part thereof) containers purchased in the previous financial year subject to no grower having more than four votes in total.
29. For the purpose of voting at a future poll on the question of the continuation of the Order, a grower who grew or produced fresh tomatoes in the preceding year is eligible to vote.

30. If the Act is amended to enable voting on the basis of containers purchased, the voting in a future poll on the question of the continuation of the Order shall be on the basis of one vote for each 100,000 (or part thereof) containers purchased in the previous financial year subject to no grower having more than four votes in total. If the Act is not amended, the voting shall be on the basis of one vote for each grower.

Meetings

31. (a) The Committee must hold an Annual General Meeting in each financial year.
(b) At the Annual General Meeting the Chairperson of the Committee shall report to growers on the operation of the Committee during the previous 12 months and provide growers with a copy of the latest Annual Report and Plan of Operation.
(c) The timing of all meetings of the Committee, including the Annual General Meeting, is at the discretion of the Committee.

Financial Year

32. The financial year of the Committee is the period from 1 July to 30 June.

Penalty for Contravening the Order

33. A person who fails to comply with the requirement of Clause 14 relating to the payment of a charge imposed by the Committee contravenes this Order and is liable to a penalty not exceeding 20 penalty units. One penalty unit is currently \$100.

KEITH HAMILTON
Minister for Agriculture

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