

MARKETING OF ONIONS.

No. 39 of 1965.

AN ACT to amend the Marketing of Onions Act, 1938-1960.

[Assented to 8th November, 1965.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Marketing of Onions Act Amendment Act, 1965*. Short title and citation.

(2) In this Act the Marketing of Onions Act, 1938-1960, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Marketing of Onions Act, 1938-1965.

Repeal of
Act No. 39
of 1953.

2. The Marketing of Onions Act Amendment Act, 1953, is repealed.

S. 2
amended.

3. Section two of the principal Act is amended by substituting for the interpretation, "Grower", the following interpretation—

"Grower" means any person by whom, or on whose behalf, onions are grown for sale and includes every party to a sharefarming agreement, pursuant to which onions are grown for sale. .

S. 3
amended.

4. Section three of the principal Act is amended by substituting for the words, "during the preceding growing season has harvested at least a quarter of an acre of onions", in lines five, six and seven of subsection (3), the passage, "has, during either of the two last preceding growing seasons, delivered to the Board at least three tons of onions for which he has ranked for payment, or, where the Board was not in existence during either of those seasons, satisfies the Director of Agriculture that he has produced and sold during either of them at least three tons of onions".

S. 4
amended.

5. Section four of the principal Act is amended by repealing subsections (3) and (4) and substituting the following subsections—

(3) A proclamation made under this section shall not extend to, or affect, any onions that the grower has, by notice given to the Board, in the form and within the time prescribed, declared to be the subject of, or required or intended by him for the purposes of, trade or commerce between the States of the Commonwealth and that are, thereafter, sold or disposed of in the course of that trade or commerce.

(4) Every grower who has given to the Board a notice such as is mentioned in subsection (3) of this section shall render to the Board such returns, relating to the onions specified in the notice, as may be prescribed.

(5) Where a grower does anything, with regard to the onions, or any of them, specified in a notice given under subsection (3) of this section, that is inconsistent with their sale or disposal in the course of trade or commerce between the States of the Commonwealth, the property in those onions or in those of them in respect of which that thing was done shall vest in the Board and the provisions of this Act, so far as they are capable of being applied, shall apply with respect to those onions. .

6. Section eleven of the principal Act is ^{S. 11} amended—
amended.

- (a) by inserting immediately after the section number, "11", the subsection designation, "(1)";
- (b) by substituting for the passage, commencing with the word, "the", in line five of paragraph (a) and ending with the word, "onions", being the final word of the paragraph, the passage, "all those onions have been delivered to, and accepted by, the Board, pursuant to its directions in writing";
- (c) by substituting for the word, "Fifty", in the ultimate line of paragraph (c), the words, "One hundred";
- (d) by substituting for subparagraph (i) of paragraph (d) the following subparagraph—
 - (i) Sales of onions by any grower whose total crop does not exceed three tons; ;

- (e) by inserting, immediately after the word, "prescribed", in line two of subparagraph (iv) of paragraph (d), the passage, "including sales of particular prescribed varieties of onions, during specified periods, in respect of which the grower has given to the Board three months' notice, in writing, of his estimated production and approximate time of availability.
- (f) as to subparagraph (ii) of paragraph (g)—
 - (i) by substituting for the words, "Subject as in this subparagraph hereafter provided", in lines one and two, the passage, "Subject to the provisions of subparagraphs (iii) and (iv) of this paragraph"; and
 - (ii) by deleting the proviso;
- (g) as to subparagraph (iii) of paragraph (g)—
 - (i) by substituting for the expression, "(1)", in line three, the expression, "(i)"; and
 - (ii) by inserting, immediately after the word, "recklessly", in line four, the words, "under-estimated or";
- (h) by adding, after subparagraph (iii) of paragraph (g), the following subparagraph—

(iv) Where a grower accounts to the Board for not less than ninety per centum of the quantity of onions specified in a statement, furnished pursuant to subparagraph (i) of this paragraph, or of the quantity determined and fixed by the Board, under subparagraph (iii) of this paragraph, he shall be deemed to have accounted satisfactorily for the whole quantity so specified or fixed and determined; and, where a grower fails to account to the Board for ninety per centum of that quantity, if he is able to

show that the failure is due to a circumstance (other than the circumstance that the Board fixed and determined the quantity) for which he was not in any way responsible or over which he had no control, the grower shall not incur any liability to the Board in respect of the quantity of onions for which he has failed to account. ;

and

(i) by adding the following subsection—

(2) A court convicting a person of buying or receiving onions from a grower, contrary to the provisions of paragraph (c) of subsection (1) of this section, shall, whether or not imposing any penalty for that offence, order the offender to pay to the Board an amount equal to the retail value of the onions at the date of his conviction; and any amount so ordered to be paid may be recovered as if it were a penalty imposed under this section. .
