

MARKETING OF POTATOES.

6° Elizabeth II., No. XXIX.

No. 29 of 1957.

AN ACT to amend the Marketing of Potatoes Act, 1946-1956.

[Assented to 26th October, 1957.]

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

Short title
and citation.

1. (1) This Act may be cited as the *Marketing of Potatoes Act Amendment Act, 1957.*

(2) In this Act, the Marketing of Potatoes Act, 1946-1956,

Act No. 26 of 1946 as amended by Acts Nos. 4 of 1949 and 3 of 1956,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Marketing of Potatoes Act, 1946-1957.

2. Section five of the principal Act is amended by adding before the interpretation, "sell", the following interpretation— S. 5
amended.

"inspector" means an inspector appointed under section eighteen of this Act.

3. Section twenty-two of the principal Act is amended— S. 22
amended.

(a) by repealing subsection (1);

(b) by substituting for the words, "appointed day" in line one of subsection (2), the passage, "first day of October, one thousand nine hundred and forty-eight"; and Cf. Gazette
of 1st
October,
1948, p. 2314.

(c) by adding after subsection (2), the following subsections—

(3) In a complaint for an offence of purchasing, or an offence of taking delivery of, potatoes from a grower, contrary to the provisions of subsection (2) of this section, it is sufficient to refer to the grower as "a grower" without the necessity of stating the name of a grower.

(4) At the hearing of a complaint of an offence referred to in subsection (3) of this section, evidence

(a) that the person charged was in possession or control of a quantity of potatoes at a material time; and

(b) that the quantity of potatoes exceeded ten stones in weight, or was estimated by an inspector in a manner which the Court deems reasonable to exceed ten stones in weight; and

- (c) that the person charged was at that material time required by an inspector to produce to the inspector a sales docket evidencing that the potatoes were purchased by the person charged, or a delivery note evidencing the delivery of the potatoes to the person charged; and
- (d) that the person charged did not produce to the inspector any sales docket, or as the case may be, any delivery note; or
- (e) that the person charged did in fact produce to the inspector a sales docket, or delivery note, but
 - (i) the sales docket, or delivery note, did not purport to have been issued by or on behalf of the Board or an agent; or
 - (ii) it was not in fact issued by or on behalf of the Board or an agent; or
 - (iii) if it did not so purport, or was not so issued, the potatoes were not contained in bags or other containers branded or marked in accordance with particulars shown in the sales docket or delivery note; or were not contained in any bags or other containers;

shall be deemed to be *prima facie* evidence that the person charged purchased, or as the case may be, took delivery of, the potatoes from a grower contrary to the provisions of subsection (2) of this section.

Provided that it shall be a defence if it can be shown that the potatoes are the property of a grower and are being held for seed purposes.

(5) A person who is the driver or who is in charge or apparently in charge of a vehicle on which there are potatoes to a quantity exceeding ten stones in weight, or estimated by an inspector in a manner which the Court deems reasonable to exceed ten stones in weight, shall be deemed to have control of the potatoes, but this presumption does not prejudice any other method of proof of possession or control.

(6) Evidence that a person had in his possession or control potatoes of a quantity exceeding ten stones in weight, or estimated by an inspector in a manner which the Court deems reasonable to exceed ten stones in weight, shall be deemed *prima facie* evidence that he received the whole of the quantity into his possession or control by one and the same purchase, or, as the case may be, by one and the same acceptance of delivery.

(7) For the purposes of ascertaining whether the provisions of this Act or any regulation are being contravened,

(a) an inspector, wearing on the left arm a white arm band not less than four inches in width with the letters P.M.B. embossed in black thereon, the letters being not less than two inches in height, may request any person who is the driver or who

is apparently in charge of a vehicle to permit the inspector to inspect the vehicle and any thing on the vehicle, and may request a driver of a vehicle in motion to stop the vehicle;

(b) if potatoes of a quantity exceeding ten stones in weight, or estimated by an inspector to exceed ten stones in weight, are on the vehicle an inspector

(i) may request the person who is the driver or who is apparently in charge of the vehicle—

to give to the inspector his name and address;

to supply to the inspector such information relating to the potatoes and the journey or intended journey of the vehicle as the inspector requires; and

to produce to the inspector any sales docket or delivery note relating to the potatoes;

(ii) may provided that he first gives the person a written receipt which receipt shall clearly identify the docket delivery note or document impound any sales docket or delivery note produced to him, or any document which relates to potatoes and which he finds on the vehicle; and

- (iii) may provided that he first gives the person a written receipt for the same impound any bag or other container which is suitable as a container for potatoes and which he finds on the vehicle, either with or without the potatoes, if any, contained in the bag or other container.

Provided that the powers conferred on inspectors by this subsection shall continue in operation until the thirty-first day of December one thousand nine hundred and fifty-nine and no longer.

(8) A person who does not comply with a request made under subsection (7) of this section by an inspector, or who does not to the best of his belief give to the inspector information requested; or who hinders or obstructs an inspector in the course of his duty, commits an offence against this Act.

(9) The provisions of subsections (7) and (8) of this section are in addition to, and not in derogation of, any other provisions of this Act or of the regulations relating to the authority of, or obstruction of, inspectors.

4. Section twenty-five of the principal Act is amended—

- (a) by substituting for the words “to which the notice referred to” in line two of subsection (3), the passage “on or after the day mentioned”, and
- (b) by adding after the word “or” in line three of subsection (3) the passage “potatoes to which”.

S. 41
amended.

5. Section forty-one of the principal Act is amended by adding after the word "Act" in subsection (2), the passage "other than section twenty-two and section twenty-six", and adding after the word "pounds", being the last word in subsection (2), the passage "and for offences against section twenty-two and/or section twenty-six of this Act, to a minimum penalty irreducible in mitigation notwithstanding any provision of any other Act, of twenty pounds".
