

FRUIT CASES.

24° GEO. V., No. XXII.

No. 22 of 1933.

AN ACT to amend the Fruit Cases Act, 1919-1932.

[Assented to 13th November, 1933.]

BE it enacted by the King'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.
See No. 7 of
1932, s. 3.

1. This Act may be cited as the *Fruit Cases Act Amendment Act*, 1933, and shall be read as one with the Fruit Cases Act, 1919-1932 (No. 40 of 1919 as amended by No. 7 of 1932), hereinafter referred to as the principal Act.

Amendment
of s. 2.

2. Section two of the principal Act is amended by inserting after the definition of "Inspector" a definition, as follows:—

"Second-hand case" means a case which has been used for containing fruit and out of which the fruit previously contained therein has been removed.

Amendment
of s. 8.

3. Section eight of the principal Act is amended by deleting the whole of subsection (1) as amended by the Act No. 7 of 1932 and inserting in lieu thereof a subsection, as follows:—

(1.) Except as hereinafter provided, no person shall—

(a) sell or export fruit in a case which has previously been used for any purpose whatever; or

(b) have in any such case fruit intended for sale or export:

Provided that, subject to the regulations under this Act and the regulations under the Plant Diseases Act, 1914, nothing in this section shall prevent a case, which has been used for any purpose hereinafter mentioned, and no other, from being used again for containing fruit to the extent and subject to the conditions following, that is to say—

- (i) When fruit sold to a registered factory buyer for the purpose of his business has been sent to his factory in a case, the case may, after undergoing the prescribed inspection and treatment, be used again for containing fruit to be carried to the premises of any registered factory buyer, such fruit having been sold to him for the purposes of his business;
- (ii) When bananas or pineapples have been imported into the State in a prescribed case, or when bananas or pineapples grown within the State have been carried within the State in a prescribed case, such case may, after undergoing the prescribed inspection and treatment, be used again for containing either bananas or pineapples or vegetables (not being fruit);
- (iii) A second-hand case may be used for containing fruit intended for sale, or for conveying fruit to a packing shed for packing prior to sale or export, so long as the case is clean and free from disease, and the brands and marks (if any) thereon of any previous packers or growers are first removed therefrom, and the provisions of section five of this Act are duly complied with in relation to such case;
- (iv) Fruit contained in a second-hand case as authorised by paragraph (iii) of this proviso shall be sent or carried only in accordance with regulations which may specify the method of transport and the places from and to which such case may be sent or carried;
- (v) If an inspector finds a second-hand case being sent or carried, whether containing fruit or not, which in his opinion is unfit to contain fruit by reason

of disease or uncleanness found therein, or which is being used, sent, or carried in contravention of this section, or any regulations relating thereto, the inspector may seize such case, and, subject to paragraph (vi) of this proviso, may destroy the same without incurring any liability whatsoever in respect thereof, and such seizure and destruction shall be effected at the expense of the sender of the fruit;

- (vi) When any case seized by an inspector under paragraph (v) hereof contains fruit, the inspector, prior to destroying the case, shall require the person in whose possession the case was found, to remove the fruit from such case, and, if such person shall fail, refuse, or neglect so to do, the inspector may himself remove the fruit from the case and leave it at the place where the case was seized as aforesaid; and neither the inspector nor the Crown, nor any common carrier, shall incur any liability whatsoever in relation to any damage occasioned by reason of the fruit being removed from the case as aforesaid;
- (vii) Any expense incurred by an inspector in relation to the seizure and destruction of any case under the authority of paragraphs (v) and (vi) hereof for the payment of which any person is liable under this section, may be recovered by action from such person at the suit of the Director of Agriculture in any court of competent jurisdiction.

4. A section is inserted in the principal Act, after section twelve, as follows:—

13. In any proceedings in respect of offences under this Act—

- (a) no proof shall be required of the authority of the inspector to take the proceedings, or of his appointment as such inspector; and
- (b) the person whose name is marked on the outside of a case as the grower or packer of the fruit contained therein shall be deemed to be the grower or packer of such fruit until the contrary is proved.

5. The principal Act as amended by this Act may be cited as the *Fruit Cases Act, 1919-1933.*

New section.

Evidence.

Citation of principal Act as amended.