

STATE MANUFACTURES DESCRIPTION.

22° GEO. V., No. V.

No. 5 of 1931.

AN ACT to provide for the stamping or marking of Western Australian Products and Manufactures, and for other relative purposes.

[Assented to 6th August, 1931.]

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:—

1. This Act may be cited as the *State Manufactures Description Act*, 1931, and shall come into operation on a date to be fixed by proclamation.

Short title and commencement.

2. In this Act, unless inconsistent with the context, the expression: "Manufactured in Western Australia," applied to any articles or goods, means that the same are wholly produced or wholly manufactured in Western Australia from raw materials.

Definition.

3. The Minister may, by regulations under this Act, prescribe—

State mark of origin.

(a) forms of stamps or marks (hereinafter called "State marks") indicating that goods were produced or manufactured in Western Australia;

Grade and quality marks.

c.f., Imp. Act, 18 and 19 Geo. V., Cap. 19, s. 1, s.s. (1).

(b) further signs or marks which may be used in conjunction with the State marks referred to in paragraph (a) so as to indicate that such goods conform to a prescribed grade or standard of quality (hereinafter called "grade marks").

4. Any person selling, offering, or exposing for sale in Western Australia goods produced or manufactured in Western Australia may, if he so desires, obtain from the Chief Inspector of Factories and affix to the goods, or the container

State mark or grade mark may be attached to W.A. goods.

Ibid., s. 2.

thereof, according to the method prescribed, a State mark with or without a grade or quality mark, in such form as may be prescribed for the particular class of goods. Such State marks or grade marks shall not be transferable by the person to whom they are issued.

Warranty on sale of
marked goods.

Ibid., s. 1., s.5. (2).

5. When a person sells any goods to which a State mark is applied then, notwithstanding any contract or notice to the contrary, it shall be deemed to be a term of the contract of sale that the goods were produced or manufactured in Western Australia and, further, when a grade mark is applied to the goods, that the goods conform to the description or definition prescribed in respect of the particular grade mark.

Offences.

6. No person shall—

- (a) sell, offer, or expose for sale any goods produced or manufactured out of Western Australia to which is applied any stamp, mark, description, form of words, or device calculated to mislead a purchaser into the belief that the same were produced or manufactured in Western Australia, or by words or conduct misrepresent to any other person that any such goods were produced or manufactured in Western Australia;
- (b) affix or use any State mark to or in connection with any goods sold, offered, or exposed for sale unless the goods were in fact produced or manufactured in Western Australia, or affix or use any grade mark in conjunction with any such State mark, unless the goods conform to the prescribed description or definition of standard or quality for the particular grade mark used;
- (c) make any stamp, sign, or device resembling a State mark or grade mark;
- (d) use in connection with any goods any stamp, sign, or device so nearly resembling a State mark or grade mark as to be calculated to deceive.
- (e) mark any goods, or the container thereof with a State mark or grade mark unless he is authorised to do so by regulations made under this Act.

General penalty.

7. Any person who by act or omission contravenes any of the provisions of this Act shall, where no other penalty is specified, be liable to a penalty not exceeding twenty pounds.

8. The general administration of this Act shall be under the control of the Minister of the Crown appointed by the Governor. Administration

9. The Chief Inspector of Factories and all other inspectors from time to time appointed under the Factories and Shops Act, 1920, and inspectors under the Plant Diseases Act, 1914, shall be *ex officio* inspectors under this Act. Inspectors

10. It shall be the duty of an inspector under this Act to see that the provisions of the Act are being carried out and, subject to the approval of the Chief Inspector of Factories, to carry on and conduct prosecutions for breaches of the same. Duties of inspectors.

11. (1.) An inspector under this Act may—

- (a) enter at all reasonable times by day and night any premises or place in which he has reasonable cause to believe that goods produced or manufactured in Western Australia are or have been manufactured, sold, offered, or exposed for sale; or any premises or place where he has reason to believe an offence against this Act or the regulations thereunder has been committed;
- (b) take with him a member of the police force to assist him in the execution of his duty;
- (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are being infringed;
- (d) require the production by any person manufacturing goods in and for sale in Western Australia, or selling, offering, or exposing for sale in Western Australia goods produced or manufactured in Western Australia, of all books, vouchers, letters and documents (excepting trade formulae and letters and documents containing any information or particulars of a private or secret nature relating to the process of manufacture by such person) relating to the manufacture, acquisition, purchase or possession of such goods by such person; and make copies of or extracts from the same;
- (e) require any person whom he has reason to believe to be or to have been within the preceding six months employed or engaged by any person in relation to the manufacture, sale, exposing or offering for sale of any such goods as are mentioned in

Powers of
inspectors.
cf. Factories and
Shops Act 1920,
s.s. 11 and 12.

the preceding paragraph to answer any question touching any matter arising under any such provisions as aforesaid, and to require such person to make and sign a statutory declaration (which shall be exempt from stamp duty) of the truth of the matters respecting which he is so questioned:

Provided that no such person shall be required to answer any question tending to criminate himself;

- (f) take with him into any building, premises, or place any person whom he may think qualified to act as an interpreter and whose assistance he shall deem necessary in the performance of his duties.

Any question asked by such person shall be deemed to have been actually made by the inspector; and any person who obstructs the interpreter shall be deemed to have obstructed the inspector within the meaning of this Act.

- (g) an inspector acting under the provisions of this Act shall, and if and when called upon, produce satisfactory evidence of his appointment as such.

(2.) No inspector or interpreter shall disclose to any person, other than in the course of his duties under this Act, any information which he acquires in the exercise of his duties.

Ibid. s. 13.

12. The occupier of any building, premises, or place shall at all reasonable times furnish the means required by an inspector for any entry, inspection, examination, and inquiry or the exercise of his powers under this Act.

Ibid. s. 15.

13. No person—

- (a) shall obstruct any inspector in the execution of his duties under this Act; or
- (b) being lawfully required by an inspector, shall fail to produce or exhibit any books, vouchers, letters or documents (excepting trade formulae and letters and documents containing any information or particulars of a private or secret nature relating to the process of manufacture by a person as aforesaid) or to permit extracts from or copies thereof to be taken or made; or

- (c) shall wilfully mislead any inspector in any particular likely to affect the discharge of his duty; or
- (d) being lawfully required to answer any question by any inspector pursuant to this Act, shall fail to answer the same truthfully to the best of his knowledge, information, and belief.

Penalty: Ten pounds.

14. A person shall be deemed to obstruct an inspector in the execution of his duty under this Act who— *Ibid.* s. 17.

- (a) without reasonable cause delays an inspector in the exercise of any of his powers or duties under this Act; or
- (b) fails to comply with a requisition of an inspector made under any such power, or to produce any document which he is required by this Act to produce; or
- (c) prevents or attempts to prevent any person from appearing alone before or being examined by an inspector.

15. The Minister may make regulations under this Act— *Regulations.*

- (a) prescribing the manner and form of applications for State marks or grade marks under this Act;
- (b) prescribing the forms of State marks and grade marks to be used on goods, and differentiating between different varieties of goods;
- (c) prescribing a definition of standard or quality for any particular class of goods to be indicated by the use of any specified grade mark;
- (d) prescribing the position and method of affixing such stamps or marks to the goods or the container thereof;
- (e) providing for the taking of samples, the testing and method of testing, and inspection of goods in respect of which any State mark or grade mark is used;
- (f) prescribing the fees to be charged under this Act;
- (g) prescribing penalties not exceeding twenty pounds for any breach by act or omission of the said regulations;
- (h) generally for carrying this Act into effect.