

ACT AMENDMENT
(AGRICULTURAL PRODUCTS)
AND REPEAL.

No. 61 of 1982.

AN ACT to amend the Agricultural Products Act 1929-1974 and to repeal the Fruit Cases Act 1919-1973.

[Assented to 28 September 1982.]

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 *Act Amendment (Agricultural Products) and Repeal Act 1982*. Short title.

(2) In this Act the Agricultural Products Act 1929-1974 is referred to as the principal Act. Reprinted as approved 14 January 1970 and amended by Act No. 82 of 1974.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

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Section 1 substituted.

3. Section 1 of the principal Act is repealed and the following section substituted—

Short title.

“ 1. This Act may be cited as the *Agricultural Products Act 1929-1982.* ” .

Section 2 amended.

4. Section 2 of the principal Act is amended—

(a) by deleting “In” and substituting the following—

“ (1) In ” ;

(b) by inserting after the definition “place” the following definition—

“ “relevant code” in relation to an agricultural product or class of agricultural products is the code formulated pursuant to section 3F of this Act in relation to the agricultural product or class of agricultural products, as the case may be, by the Minister; ” ; and

(c) by inserting the following subsection—

“ (2) In this Act unless the contrary intention appears a reference to “this Act” includes a reference to a code formulated by the Minister under this Act. ” .

Section 3 substituted.

5. Section 3 of the principal Act is repealed and the following section substituted—

Packing and marking of wool.

“ 3. A person shall not himself or by his servant or agent—

(a) consign or remove, or cause or permit to be consigned or removed, from the property on which it is produced, any wool that is intended for sale or has been sold unless prior to the consignment or removal the wool is first packed in a bale or package that is

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marked, branded or labelled in such manner as to clearly and legibly indicate the identity of the producer of the wool; or

- (b) have in his possession, except on the property on which it is produced, any wool that is intended for sale or has been sold unless the wool is packed in the manner referred to in paragraph (a) of this section.

Penalty: \$400. ” .

6. Section 3D of the principal Act is amended by inserting after subsection (3) the following subsection—

Section 3D amended.

“ (4) In this section “prescribed” means prescribed in a Code formulated under section 3F of this Act. ” .

7. Section 3E of the principal Act is amended by deleting “One hundred dollars.” and substituting the following—

Section 3E amended.

“ \$1 000. ” .

8. The principal Act is amended by inserting before section 4 the following sections—

Sections 3F, 3G and 3H inserted.

“ 3F. (1) For the purposes of this Act the Minister may formulate codes providing for the grading, marking and packing of agricultural products.

Minister may formulate codes.

(2) The Minister may in a code formulated under subsection (1) of this section specify the package, or kind of package to be used in relation to an agricultural product.

(3) A code formulated under this section may be amended or repealed by the Minister and may be made so as to—

- (a) apply generally or be limited in its application to the particular products or class of products specified in the code;
- (b) apply in relation to the particular time, place or circumstances specified in the code;
- (c) provide that any act or thing shall be done with the approval or to the satisfaction of a specified person or class or persons and may confer a discretionary authority;
- (d) adopt, either wholly or in part or with modifications and either specifically or by reference any standards, rules, codes or specifications of the body known as the Standards Association of Australia or other like body specified in the code; and
- (e) provide that where by reason of unavailability of materials or other reason that the Minister considers valid any requirement adopted by a code cannot be conformed to the Minister may approve such use of materials as he considers to be consistent with the achievement of the objects of the code.

(4) A code formulated under this section and any amendment or repeal thereof shall be published in the *Government Gazette*.

Topping
prohibited.

3G. Except in the case of a sale for the purposes of export from the State, a person shall not himself or by his servant or agent sell any lot or portion of a lot of products or any products contained in a package unless the outer layer or shown surface of such products is so arranged, stacked or packed

that it is a true indication of the fair average size, nature and quality of all the products in such lot or package.

Penalty: \$1 000.

3H. (1) Except in the case of a sale for the purposes of export from the State, a person who packs any products intended for sale otherwise than by way of retail sale shall grade the products and pack and mark the package in accordance with the relevant code.

Products to be packed, graded and marked in accordance with the relevant code.

(2) Except in the case of a sale for the purposes of export from the State, a person shall not sell any products otherwise than by way of retail sale unless—

(a) the products are contained in a package that conforms to the relevant code; and

(b) the products are graded, marked and packed in accordance with the relevant code.

(3) Except in the case of a sale for the purposes of export from the State, a person shall not sell any products by way of retail sale unless the products are graded and marked in accordance with the relevant code.

(4) A person who contravenes or fails to comply with subsection (1), (2) or (3) of this section commits an offence.

Penalty: \$400. ” .

9. Section 4 of the principal Act is amended—

Section 4 amended.

(a) in subsection (2) by deleting “any proceedings that may be taken by him in respect thereof for an offence against this Act are disposed of” and substituting the following—

“ the agricultural products are dealt with in accordance with this section ” ;

(b) by repealing subsections (4) and (4a) and substituting the following subsections—

“ (4) Where pursuant to subsection (2) of this section an inspector takes possession of and detains any package or lot he shall—

(a) serve on the owner a notice in the prescribed form (in this section called a “detention notice”) informing the owner that the agricultural products in the package or lot do not conform to the provisions of this Act and that the agricultural products are detained subject to this section; and

(b) subject to subsection (4a) of this section, affix a copy of the detention notice to each package or lot of agricultural products in respect of which the detention notice applies.

(4a) Where it is not practicable for an inspector to affix a detention notice to each package or lot of agricultural products in accordance with subsection (4) (b) of this section the inspector shall, instead of affixing a detention notice to each package or lot, separate the packages or lots of agricultural products that are the subject of the detention notice by marking off the floor space occupied by them and placing a notice in the vicinity of the packages or lots so detained indicating that the packages or lots so set aside are the subject of a detention notice and the number of packages or lots to which the detention notice applies.

(4b) Where the identity of the owner or the person in charge of any agricultural products is not known to him the inspector may address the detention notice to the owner or the person in charge of the agricultural products by affixing the notice to the package of agricultural products in relation to which the notice applies.

(4c) Where pursuant to this section an inspector detains any agricultural products or package of agricultural products but is of the opinion that the agricultural products can be made to conform to the requirements of this Act the inspector may order the owner or the person for the time being in charge of the agricultural products to take such measures or do all such things with respect thereto at the expense of the owner of the agricultural products as the inspector determines to be necessary to make the agricultural products conform to the requirements of this Act.

(4d) Where an inspector is satisfied that any agricultural products or any package of agricultural products cannot be made to conform to the requirements of this Act the inspector may order that the agricultural products or portion thereof be destroyed or otherwise disposed of as prescribed.

(4e) Where an inspector has ordered any agricultural products to be destroyed the agricultural products the subject of the order shall not be destroyed without the written approval of the Minister or a person authorized by the Minister in that behalf.

(4f) Whilst a detention notice is in force in relation to any agricultural products or package or lot of agricultural products a person shall not—

(a) sell, or permit, suffer or cause another person to sell the agricultural products to which the detention notice applies;
or

(b) remove any detention notice affixed by an inspector under this section to the agricultural products or package or lot of agricultural products or any notice indicating that the packages or lots of agricultural products are the subject of a detention notice.

Penalty: \$1 000.

(4g) An inspector may, with the approval of the Permanent Head or a person authorized by the Permanent Head in that behalf, revoke any detention notice given under this section and upon the revocation being so authorized the inspector shall remove the detention notice from the agricultural products or package of agricultural products as the case requires. ” ; and

(c) by repealing subsection (7).

Section 4A
amended.

10. Section 4A of the principal Act is amended—

(a) in subsection (1), by deleting paragraph (b) and substituting the following paragraph—

“ (b) is not packed in the manner referred to in section 3 (b) of this Act, ” ; and

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- (b) in subsection (3), by deleting “One hundred dollars.” and substituting the following—

“ \$1 000. ” .

11. Section 6 of the principal Act is amended by deleting “Forty dollars.” and substituting the following— Section 6 amended.

“ \$400. ” .

12. Section 8 of the principal Act is amended— Section 8 amended.

- (a) in subsection (2), by deleting “paragraph (e) or paragraph (f) of subsection (1) of”;
and

- (b) in subsection (3), by deleting “fruit” wherever occurring and in each case substituting the following—

“ agricultural products ” .

13. The Fruit Cases Act 1919-1973 is hereby repealed. Fruit Cases Act 1919-1973 repealed.
