

FRUIT CASES.

10° GEO. V., No. XXVIII.

No. 40 of 1919.

AN ACT to regulate the Size and Description of Cases used in the Sale and Export of Fruit, and for purposes incidental thereto.

[Assented to 17th December, 1919.]

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 *Fruit Cases Act*, 1919, and shall come into operation on a date to be fixed by proclamation. Short title and commence-
ment.

2. In this Act—

“Case” means any box, case, or other receptacle used, intended to be used, or capable of being used, for containing fruit; Interpretation.
See S.A. No.
1233 (1915), s. 3.

“Export” means to export or attempt to export from the State:

“Fruit” means apples, pears, quinces, oranges, mandarins, lemons, citronelles, pomeloes, peaches, nectarines, apricots, plums, cherries, grapes, loquats, passion fruit, figs, gooseberries, cape gooseberries, tomatoes, bananas, and pine-apples, and any other fruit declared by the Governor by notice in the *Gazette* to be fruit within the meaning of this Act:

“Inspector” means an inspector appointed under “The Plant Diseases Act, 1914,” or any Act thereby repealed:

“Sell” includes—

- (a) to offer, expose, send or deliver for or on sale:
- (b) to receive for sale:
- (c) to cause or suffer to be sold, or received for sale:
- (d) to attempt to do any of such acts or things, and the word “sale” shall be construed accordingly:

“Standard case” means a case conforming in measurement and capacity to the prescribed standard:

Fruit to be sold
in standard
cases.
See S.A. Act
No. 1233 (1915),
s. 5.

3. (1.) Except as hereinafter provided, no person shall sell fruit, or export fruit from the State to any place within the Commonwealth, unless such fruit is contained in the prescribed standard case or cases.

Provided that this section shall not apply to—

- (a) dried, preserved, tinned, or canned fruit:
- (b) fruit sold by weight, or number, in a quantity at one time of less than twenty pounds in weight:
- (c) fruit sold in baskets, wooden buckets, or punnets:
- (d) fruit sold or exported in trays, whether single, cleated together, or enclosed within a frame or crate, but so that none of the trays shall contain more than one layer or more than sixteen pounds in weight of fruit:
- (e) grapes delivered to wineries and distilleries:
- (f) any particular fruit which the Governor by regulation exempts from the provisions of this Act:
- (g) any kind of fruit sold in such cases, or in such circumstances as the Governor, by regulations, exempts from the provisions of this Act as regards that particular kind of fruit:
- (h) fruit sold to a person for the time being registered as a factory buyer pursuant to section *eight*: provided that it is sold by weight and—
 - (i) for the purpose of being used for the manufacture or preparation of articles used for food or drink; or
 - (ii) for the purpose of being packed for sale in standard cases.

Provided that every receptacle or package containing baskets, wooden buckets, punnets, or trays referred to in paragraphs (c) and (d) must have the name of the grower, the name of the district in which the grower's orchard is situated, the name of the fruit, and the weight or number

thereof, legibly marked on the outside of such receptacle or package.

(2.) The Governor may make regulations prescribing what shall be deemed to be dried, preserved, tinned or canned fruit for the purpose of this section or any such purpose.

4. The standards for fruit cases shall be such as are for the time being prescribed by regulations.

Standard cases
to be pre-
scribed.
See S.A. 1233
(1915), s. 6.

5. No person shall sell or export fruit in a case unless the name of the grower of the fruit, and the name of the district in which the grower's orchard is situated, are legibly and durably impressed, printed, or stencilled at one end on the outside of the case, together with the name of the fruit and the quantity in bushels, three-quarter bushels, half bushels, quarter bushels or other measurements according to the capacity of the standard to which the case should conform, no letters or figures used being less than three-eighths of an inch in length.

Case to show
fruitgrower's
name, etc.

Provided that, subject to the regulations—

- (a) where single cases are packed with more than one variety of fruit the name and address of the packer may be impressed, printed, or stencilled on the case as aforesaid instead of the name of the grower of the fruit; and
- (b) in lieu of the name of the grower or the name and address of the packer, a fruit brand together with the initials of the grower or packer may be used by an individual or firm or by any incorporated company, if such brand is approved and registered by the Department of Agriculture pursuant to the regulations, and a fee of seven shillings and sixpence paid for such registration.

6. (1.) No person shall manufacture or sell cases or shucks intended for fruit cases of a prescribed standard, which are of less dimensions, size, or capacity than that of the prescribed standard case.

Prohibition of
manufacture
and sale of
undersized
fruit cases.

(2.) If any person charged with any offence under this Act or any regulations hereunder relating to the sale of any fruit in a case of less dimensions, size, or capacity than those of the standard case, shall prove that he purchased the same from a manufacturer who represented the case to be of the dimensions, size, and capacity of a standard case, such proof shall be a good defence to such charge.

Offence to
falsely mark
case or to alter
case or mark.
See S.A. No.
1233 (1915), s. 9.

7. (1.) No person shall place, cause, or suffer to be placed on a case any name, address, guarantee, or particulars required by this Act which is or are incorrect in any particular.

(2.) Subject to section *seven*, no person shall alter the size, shape, or any of the measurements of, or in any way tamper with any case bearing a fruitgrower's or packer's name and address, or wilfully deface or alter or in any way tamper with such name or address.

New cases to be
used subject to
exceptions.

8. (1.) Except as hereinafter provided, no person shall sell or export fruit in a case which has previously been used for any purpose whatever, and no person shall consign or send by any railway any case, either full or empty, which has once been used for containing fruit and out of which the fruit has been taken or any case from which brands and marks have been removed: Provided that, subject to the regulations under this Act and the Plant Diseases Act, 1914, nothing in this section shall prevent a case which has been used for one of the purposes hereinafter mentioned and no other being used for containing fruit to the extent and subject to the conditions hereinafter set out, that is to say—

- (a) When any fruit contained in a case has been sold or otherwise disposed of, the case may again be used as an open case to contain fruit to be carried by road only if such case is clean and free from disease, and if before being used again to contain fruit by any person other than the one whose name appears on the case, all brands and marks thereon (if any) are removed therefrom and the provisions of section *five* are complied with in respect thereof.
- (b) When fruit sold to a registered factory buyer for the purpose of his business has been sent to his factory in any case, the case may, after undergoing the prescribed inspection and treatment, be again used 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.
- (c) When bananas or pine-apples have been imported into the State in a prescribed case, such case may, after undergoing the prescribed inspection and treatment, be again used to contain either bananas or pine-apples or vegetables (not being fruit).

(2.) Provision may be made by regulation for allowing such alterations as may be necessary to be made in any of the particulars impressed, printed, or stencilled under section *five* on any case used or intended to be used pursuant to the foregoing proviso.

9. (1.) Any occupier of premises where fruit is received in bulk for the purpose of being packed for sale in standard cases, or where fruit is used for the manufacture or preparation of articles used for food or drink (which premises are hereinafter referred to as "the factory"), and any agent of such occupier, may, on application as prescribed and on compliance with the prescribed conditions, be registered in the prescribed manner as a factory buyer for the purposes of this Act.

Registration of
factory buyers
and records to
be kept.
S.A. 1233, s. 10

(2.) Registration pursuant to this section shall be for a term of one year, and may from time to time be renewed for a further term of one year: Provided that if any person registered pursuant to this section is convicted of any offence against this Act, the magistrate or justices by whom he is convicted may, in addition to any other penalty imposed for such offence, order that his registration shall be cancelled, and he shall thereupon cease to be so registered.

(3.) Every person registered pursuant to this section shall keep, or cause to be kept, a record containing the following particulars as to each purchase of fruit—

- (a) the name and address of the person from whom the fruit was purchased;
- (b) the date when purchased;
- (c) the weight of each kind of fruit included in the purchase, whether delivered at the factory or not;
- (d) the weight of each fruit of such kind which has been delivered at the factory;
- (e) such (if any) other particulars as are prescribed.

(4.) Every person registered pursuant to this section shall, upon demand by an inspector, produce to such inspector the records required to be kept by him under this section, and shall permit him to take copies thereof or extracts therefrom.

10. (1.) Any inspector or police officer or constable may, at any time during the day-time, enter upon any land, or into any warehouse, store, shop, building, or other premises, or

Powers of
inspectors.
See S.A. No.
1233 (1915), s. 13.

enter any ship, boat, vehicle, railway wagon, or other conveyance, during the day or night, where fruit is or may reasonably be supposed to be sold or packed and kept for sale, carriage, or export, and may—

(a) measure any case, whether containing fruit or not, there found, and if necessary may, without incurring any liability for damage to the case or the contents thereof, remove the same to be measured elsewhere;

(b) do any act or thing required or permitted by regulation to be done for the purposes of this Act.

(2.) No person shall in any way obstruct or interfere with any inspector or police officer or constable in the discharge of any of his duties or the exercise of any of his powers under this Act, or refuse to give any information or knowingly give any false information in answer to any reasonable inquiry.

Regulations.
See S.A. No.
1233 (1915), s. 14.

11. The Governor may make regulations prescribing all such matters and things as this Act requires or permits to be prescribed, or which it may be necessary or convenient to prescribe for giving effect to the provisions or objects of this Act.

Penalties.
See S.A. No.
1233 (1915), s. 15.

12. (1.) Any contravention of or failure to observe the provisions of this Act or the regulations, whether by act or omission, shall be an offence against this Act.

(2.) Any person guilty of an offence against this Act shall be liable to a penalty for the first offence of not more than Twenty pounds, and for any subsequent offence of not less than Two pounds or more than Fifty pounds, and the minimum fine hereby provided for shall be irreducible.
