

WESTERN AUSTRALIA.

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# AGRICULTURAL PRODUCTS.

20<sup>th</sup> Geo. V., No. XVII

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No. 19 of 1929.

(Affected by Acts No. 34 of 1934, Sec. 5, No. 36 of 1940, Sec. 4, and No. 26 of 1946, Sec. 28.)

[As amended by Acts:

No 6 of 1940, assented to 18th October, 1940;

No. 87 of 1962, assented to 11th December, 1962;

No. 61 of 1963, assented to 18th December, 1963;

No. 12 of 1964, assented to 2nd October, 1964;

No. 62 of 1964, assented to 4th December, 1964;

No. 42 of 1965, assented to 3th November, 1965;

No. 16 of 1966, assented to 17th October, 1966;

No. 44 of 1968, assented to 3th November, 1968;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

## AN ACT to regulate the Packing and Sale of Agricultural Products.

[Assented to 27th November, 1929.]

**B**E 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 *Agricultural Products Act, 1929-1968*, and shall be read as one with, but shall not affect the provisions of, the *Fruit Cases Act, 1919*.

Short title.  
Amended by  
No. 44 of  
1968, s. 1.

Interpre-  
tation.

See Vic  
No. 2919,  
s. 20.

Amended  
by No. 6 of  
1940, s. 2;  
No. 16 of  
1966, s. 2;  
No. 44 of  
1968, s. 2.

2. In this Act—

“agricultural products” or “products” means and includes agricultural, farm, orchard, garden and dairy products and in particular, and without limiting the foregoing, fruit trees and fruit vines;

“citrus” includes oranges, mandarins, lemons and grapefruit;

“inspector” means an inspector appointed under this Act or under the Plant Diseases Act, 1914;

“lot” means any quantity of loose agricultural products not contained in a package including fruit trees or vines, whether sold singly or in quantities;

“package” means any box, case, bag, sack, material, receptacle, or container used or capable of being used or intended to be used for containing or wrapping agricultural products;

“place” includes farm, garden, orchard, road, railway station, wharf, pier, jetty, vessel, factory, warehouse, market, stall, shop, store, yard, shed, barrow, and any vehicle, stand, or premises whatsoever:

“sell” includes to offer, expose, consign, send, or deliver for or on sale; and the word “sell” shall be construed accordingly;

“stone-fruit” means apricots, peaches, plums and nectarines.

Packing and  
sale of  
Products.

See Vic.  
No. 2919,  
s. 22.

Amended by  
No. 61 of  
1963, s. 2;  
No. 42 of  
1965, s. 2;  
No. 16 of  
1966, s. 3.

3. (1) No person, either by himself or by his servant or agent shall—

(a) 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; or

- (b) pack any products intended for sale in a package, unless the products are graded and packed as prescribed; or
- (c) sell any products contained in a package unless the provisions of the preceding paragraph (b) in relation thereto have in all respects been duly complied with; or
- (d) sell any lot or part of a lot of products unless the same is graded and arranged or stacked and marked in such manner as may be prescribed; or
- (e) 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 marked, branded or labelled in such manner as to clearly and legibly indicate the identity of the producer of the wool; or
- (f) 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 (e) of this subsection.

(2) Any person committing a breach of any of the foregoing provisions of this section shall be guilty of an offence.

Penalty: Forty dollars.

3A. (1) In this section unless the context requires otherwise—

“Apple Sales Committee” means the Apple Sales Advisory Committee constituted under this section;

“grower” means a person by whom or on whose behalf apples or pears, or both apples and pears, are actually grown or produced for sale.

Advisory  
Committee.  
Added by  
No. 87  
1962, s. 2.  
Amended by  
No. 62 of  
1964, s. 2;  
No. 16 of  
1966, s. 4;  
No. 44 of  
1968, s. 3.

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(2) For the purpose of this section a Committee having the functions prescribed by this section is constituted under the name of the "Apple Sales Advisory Committee".

(3) The Apple Sales Committee shall consist of eight persons who shall be appointed by the Minister, and of those eight persons—

- (a) one shall be the Director of Agriculture or his nominee, who shall be the Chairman of the Committee;
- (b) four shall be growers, of whom—
  - (i) two carry on the business of growing apples or pears in the area known as the South-West District; and
  - (ii) one carries on the business of growing apples and pears in the area known as the Hills District and another in the area known as the Great Southern District;

and of whom each is nominated by the body known as the Western Australian Fruit Growers' Association (Inc.);

- (c) one shall be a person nominated by the body known as the Chamber of Fruit and Vegetable Industries of Western Australia (Inc.);
- (d) one shall be a person nominated by the body known as the West Australian Fruit Shippers Committee;
- (e) one shall be a person nominated by the Minister, as the representative of consumers.

(4) Subject to the Minister the functions of the Apple Sales Committee are—

- (a) to enquire into the size of the anticipated crops of apples and of pears and the quality, grade and types of apples and of pears being harvested or expected to be harvested;

- (b) to investigate and assess the demand for apples and pears within the State;
- (c) to make recommendations and submit proposals to the Minister from time to time with respect to the grades and sizes of the varieties of apples and pears the sale of which should be permitted, and the grades and sizes thereof the sale of which should be prohibited, within the State, and to vary those recommendations and proposals from time to time as circumstances may require; and
- (d) to exercise and perform such other powers and duties as the Minister may consider necessary or advisable relating to better marketing of apples and of pears.

**3B.** (1) In this section unless the context requires otherwise—

“Citrus Sales Committee” means the Citrus Sales Advisory Committee constituted under this section;

“grower” means a person by whom or on whose behalf citrus are actually grown or produced for sale.

(2) For the purpose of this section a Committee having the functions prescribed by this section is constituted under the name of the “Citrus Sales Advisory Committee”.

(3) The Citrus Sales Committee shall consist of six persons who shall be appointed by the Minister, and of those six persons—

- (a) one shall be the Director of Agriculture or his nominee, who shall be the Chairman of the Committee;
- (b) three shall be growers carrying on the business of citrus growing within the State and each of whom is nominated by the body known as the Central Citrus Council of the Western Australian Fruit Growers' Association (Inc.);

Citrus  
Advisory  
Committee.  
Added by  
No. 87 of  
1962, s. 2.  
Substituted  
by No. 16 of  
1966, s. 5.

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- (c) one shall be a person nominated by the body known as the Chamber of Fruit and Vegetable Industries of Western Australia (Inc.);
  - (d) one shall be a person nominated by the Minister as the representative of the consumers.
- (4) Subject to the Minister the functions of the Citrus Sales Committee are—
- (a) to enquire into the size of the anticipated crops of the respective kinds of citrus and the quality, grade and varieties of citrus being harvested or expected to be harvested;
  - (b) to investigate and assess the demand for the respective kinds of citrus within the State;
  - (c) to make recommendations and submit proposals to the Minister from time to time with respect to the grades and sizes of the varieties of the respective kinds of citrus the sale of which should be permitted, and the grades and sizes thereof the sale of which should be prohibited, within the State, and to vary those recommendations and proposals from time to time as circumstances may require; and
  - (d) to exercise and perform such other powers and duties as the Minister may consider necessary or advisable relating to better marketing of citrus.

Stone-fruit  
Advisory  
Committee.  
Added by  
No. 44 of  
1968, s. 4.

3BA. (1) In this section, unless the context requires otherwise—

“Stone-fruit Sales Committee” means the Stone-fruit Sales Advisory Committee constituted under this section;

“grower” means a person by whom or on whose behalf stone-fruit is actually grown or produced for sale.

(2) For the purposes of this section, a Committee having the functions prescribed by this section is constituted under the name of the "Stone-fruit Sales Advisory Committee".

(3) The Stone-fruit Sales Committee shall consist of eight persons who shall be appointed by the Minister, and of those eight persons—

- (a) one shall be the Director of Agriculture or his nominee, who shall be Chairman of the Committee;
- (b) four shall be growers, of whom—
  - (i) two carry on the business of growing stone-fruit in the area known as the Hills District; and
  - (ii) one carries on the business of growing stone-fruit in the area known as the South Suburban District and another in the area known as the South-West District;

and of whom each is nominated by the body known as the Western Australian Fruit Growers' Association (Inc.);

- (c) one shall be a person nominated by the body known as the Chamber of Fruit and Vegetable Industries of Western Australia (Inc.);
- (d) one shall be a person nominated by the body known as the West Australian Fruit Shippers Committee;
- (e) one shall be a person nominated by the Minister as the representative of the consumers.

(4) Subject to the Minister the functions of the Stone-fruit Sales Committee are—

- (a) to enquire into the size of the anticipated crops of the respective kinds of stone-fruit and the quality, grade and varieties of stone-fruit being harvested or expected to be harvested;

- (b) to investigate and assess the demand for the respective kinds of stone-fruit within the State;
- (c) to make recommendations and submit proposals to the Minister from time to time with respect to the grades and sizes of the varieties of the respective kinds of stone-fruit the sale of which should be permitted, and the grades and sizes thereof the sale of which should be prohibited, within the State, and to vary those recommendations and proposals from time to time as circumstances may require; and
- (d) to exercise and perform such other powers and duties as the Minister may consider necessary or advisable relating to better marketing of stone-fruit.

Provisions relating to Committees. Added by No. 87 of 1962, s. 2. Substituted by No. 16 of 1966, s. 6. Amended by No. 44 of 1963, s. 5.

3C. (1) The appointment as a member of any of the Committees constituted under sections three A, three B and three BA of this Act of an officer within the meaning of the Public Service Act, 1904, does not prejudice or affect the provisions of that Act or any other Act applying to him as such an officer, and does not prejudice or affect his rights or obligations as such under any of those Acts.

(2) The Minister may at any time remove any member of a Committee referred to in this section and may appoint a member to that Committee in place of a member so removed or of a member who for any other reason ceases to be a member of the Committee.

(3) Each member of a Committee referred to in this section is entitled to such remuneration and travelling and other expenses as the Minister may determine from time to time, and such remuneration and expenses and all other expenses of administration of sections three A to three E (both inclusive) of this Act (including the cost incurred in the appointment and employment of any additional inspectors) shall be paid wholly out of moneys in the



Fruit Growing Industry Trust Fund established under the Fruit Growing Industry Trust Fund Act, 1941.

(4) Procedural matters relating to the convening, holding and conduct of meetings of each of the Committees referred to in this section, including the constitution of a quorum, are such as the Minister determines and is hereby authorised to determine from time to time.

(5) The Minister may from time to time appoint, as the deputy of a member of any Committee referred to in subsection (1) of this section, a person who has been nominated for that purpose in the manner provided for the nomination of the member; and a person so appointed may, in the absence from a meeting of the Committee of the member of whom he is the deputy, attend the meeting and act as fully and effectually as the member might have done, had he been present.

(6) Subject to subsection (7) of this section, every member of a Committee referred to in subsection (1) of this section (other than the Chairman who is a member by virtue of his office) shall hold office for a term of three years and be eligible for re-appointment, but those members holding office on the date of the coming into operation of the Agricultural Products Act Amendment Act, 1968, shall continue in office until such time as new appointments are made in accordance with this Act.

(7) The office of member of any Committee referred to in subsection (1) of this section shall become vacant, if the member—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (d) is convicted of an indictable offence;

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- (e) is an incapable person, within the meaning of section four of the Mental Health Act, 1962; or
- (f) is absent, without leave of the Committee, from six consecutive meetings of the Committee;

and the Minister may, thereupon, appoint a person nominated for that purpose in the manner provided to be a member of the Committee in place of the member whose office has become vacant and a person so appointed shall hold office for the unexpired part of the term of office of that lastmentioned member.

Minister may  
by notice  
prohibit  
sales of  
prescribed  
grades, etc.  
Added by  
No. 16 of  
1968, s. 7.  
Amended by  
No. 44 of  
1968, s. 6.

**3D.** (1) The Minister, on the recommendation of the Apple Sales Committee referred to in section three A of this Act, may at any time and from time to time by notice published in the *Government Gazette* and in a daily newspaper published in Perth prohibit the sale, except for the purpose of export from the State, of apples or pears of any variety or varieties thereof that are not of prescribed grades or prescribed sizes, or of both prescribed grades and prescribed sizes as the Minister specifies in the notice, either entirely or during such period or periods as he so specifies.

(2) The Minister, on the recommendation of the Citrus Sales Committee referred to in section three B of this Act, may at any time and from time to time by notice published in the *Government Gazette* and in a daily newspaper published in Perth prohibit the sale, except for the purpose of export from the State of any kind or kinds of citrus that are not of prescribed grades or prescribed sizes, or of both prescribed grades and prescribed sizes of any variety or varieties thereof, as the Minister specifies in the notice, either entirely or during such period or periods as he so specifies.

(3) The Minister, on the recommendation of the Stone-fruit Sales Committee referred to in section three BA of this Act, may at any time and from time to time by notice published in the *Government*

*Gazette* and in a daily newspaper published in Perth prohibit the sale, except for the purpose of export from the State, of any kind or kinds of stone-fruit that are not of prescribed grades or prescribed sizes, or of both prescribed grades and prescribed sizes, of any variety or varieties thereof, as the Minister specifies in the notice, either entirely or during such period or periods as he so specifies.

3E. A person shall not sell, except for the purpose of export from the State, any apples, pears, citrus or stone-fruit of which the sale is pursuant to the provisions of section three D of this Act prohibited, and any person who contravenes the provisions of this section commits an offence.

Penalty.  
Added by  
No 16 of  
1966, s. 7.  
Amended by  
No. 44 of  
1968, s. 7.

Penalty: One hundred dollars.

3F. [*Added by No. 16 of 1966, s. 7. Repealed by No. 44 of 1968, s. 8.*]

4. (1) Whenever and wherever an inspector has reasonable grounds for believing that agricultural products other than wool are exposed or offered for sale, or are in process of transport for the purposes of sale an inspector may at any reasonable time enter and inspect any place, and examine any products in or on such place, and require the owner or person for the time being in charge of such products to open any package, or if no such owner or person is present, may himself open any package, and in any case the inspector may take, without payment therefor, samples of the agricultural products in sufficient quantity to permit the inspector to determine whether the agricultural products in his opinion, comply with the requirements of this Act.

Powers of  
inspectors.  
Vic. No. 2919,  
s. 23.  
Amended by  
No. 12 of  
1964, s. 2;  
No. 42 of  
1965, s. 4;  
No. 16 of  
1966, s. 8.

"This Act"  
includes  
regulations.  
See s. 4  
Act No. 30  
of 1918.

(2) If an inspector has reasonable grounds for believing that with respect to any package of products other than wool or lot there is a contravention of or failure to comply with this Act he may take possession of and detain such package or lot for such time as may be necessary to enable him properly to inspect and examine the same, but such inspector

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shall take all reasonable precautions to protect such packages of products or lots from injury, damage, theft, or loss to the owner until any proceedings that may be taken by him in respect thereof for an offence against this Act are disposed of.

(3) Such package or lot shall at all times during such detention be at the risk and expense of the owner thereof.

(4) In the event of an inspector taking possession of and detaining any package in the absence of the owner, he shall do so in the presence of a reputable witness, and shall affix to the package a statement giving his name and the date of his inspection, and shall, as soon as practicable, notify the owner that he has taken possession of and detained such package.

(4a) (a) Without prejudice to the operation of section three of this Act, where an inspector has reasonable grounds for believing that with respect to any agricultural product, being any citrus fruit, grapes or other prescribed agricultural product, there is a contravention of, or failure to comply with, any provision of this Act, he may, if he is of opinion that—

(i) the agricultural product can be made to comply with the requirements of the Act, order the owner or person for the time being in charge of the agricultural product to take, at the expense of the owner thereof, such measures or do all such things with respect thereto, as the inspector determines to be necessary to comply with those requirements; or

(ii) the agricultural product cannot be made to comply with those requirements, order that the agricultural product or portion thereof, be destroyed or otherwise disposed of as prescribed.

(b) Where an inspector orders any package to be repacked or any agricultural product to be destroyed

or otherwise disposed of pursuant to this subsection, he shall as soon as possible give notice of such order to the owner.

(c) No agricultural product shall be destroyed pursuant to this subsection without the approval in writing of the Minister or a person authorised in writing by the Minister to give the approval.

(5) An inspector acting under the provisions of this section shall, if and when called upon, produce satisfactory evidence of his appointment as such.

(6) Any inspector or person acting under the direction or supervision of an inspector is not liable for any loss or damage resulting from or caused by the performance or exercise of any of the powers conferred by this section upon an inspector.

(7) A person who fails to comply with an order of an inspector given pursuant to this section commits an offence.

Penalty: Forty dollars

4A. (1) Where an inspector has reasonable grounds for suspecting that wool which—

(a) is intended for sale or has been sold;

and

(b) is not packed in the manner referred to in paragraph (e) of subsection (1) of section three of this Act,

is in or on any place, not being the place on which it was produced, he may enter in or on and search that place and inspect any wool there found.

(2) An inspector may, for the purposes of exercising the powers conferred by subsection (1) of this section, stop and detain any vehicle which he suspects on reasonable grounds to be carrying wool of a kind referred to in that subsection.

Inspection  
of wool.  
Added by  
No. 42 of  
1965, s. 5.  
Amended by  
No. 16 of  
1966, s. 9.

(3) A person who, being in charge of any vehicle, fails to stop the vehicle when required to do so by a person who makes himself known as an inspector, commits an offence.

Penalty: One hundred dollars.

Exceptions  
to Act.

5. Nothing in this Act shall apply to any products, package of products or lot consigned or forwarded to a consignee for the purpose of manufacture or processing or packing, and distinctly and conspicuously marked or branded as such.

Penalty for  
obstructing  
an inspector.  
Vic. No. 2199,  
s. 20.  
Amended by  
No. 16 of  
1966, s. 10.

6. Any person who—

- (a) resists or wilfully obstructs or interferes with any inspector in carrying out his duties; or
- (b) refuses to give information or knowingly gives false information in answer to any reasonable inquiry made by an inspector for the purposes of this Act,

shall be guilty of an offence under this Act.

Penalty: Forty dollars.

Proceedings.  
Vic. No. 2919,  
s. 27.

7. Proceedings in respect of any offence under this Act may be taken and prosecuted by an inspector, and where products are sold in contravention of this Act the purchaser himself may proceed against the seller for an offence under this Act.

Evidence.  
Vic. No. 2919,  
s. 30.  
Amended by  
No. 42 of  
1965, s. 6.

8. (1) 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 or inside of any package containing products for sale, or on any label thereon, as the seller or packer thereof, shall be deemed to be the seller or packer thereof until the contrary is proved.

(2) In any proceedings in respect of an offence under paragraph (e) or paragraph (f) of subsection (1) of section three of this Act, the averment of the prosecutor that any wool the subject of the complaint is or was intended for sale or has been sold shall, if contained in a sworn complaint, be deemed to be proved in the absence of proof to the contrary.

9. (1) The Governor may make regulations not inconsistent with this Act prescribing all such matters as by this Act are required or permitted to be prescribed, or as may be necessary or convenient to be prescribed for giving effect to this Act.

Regulations.  
Vic. No. 2919,  
s. 33.  
Amended by  
No. 44 of  
1963, s. 9.

(2) Without limiting the generality of subsection (1) of this section, the Governor may make regulations for the purpose of maintaining grades and standards of fruit, at any stage of its sale or supply.

