



ANNO VICESIMO QUINTO

GEORGII V REGIS.

A.D. 1934.

No. 2192.

An Act relating to the grading of fruit, vegetables, and nursery stock.

[*Assented to, November 29th, 1934.*]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Fruit and Vegetables (Grading) Act, 1934." Short title.

2. The Potato and Onion (Grading) Act, 1927, is repealed. Repeal of 1819, 1927.

3. (1) This Act shall be construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision hereof would but for this subsection be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power. Interpretation.

(2) In this Act, unless the context otherwise requires or some other meaning is clearly intended—

"fruit" means any fruit proclaimed as a fruit to which this Act applies :

"inspector" means inspector appointed under this Act :

"lot" means any quantity of fruit or vegetables or nursery stock not contained in packages :

"nursery

Fruit and Vegetables (Grading) Act.—1934.

“nursery stock” means any tree or plant cultivated solely for its fruit (whether the fruit is proclaimed as a fruit to which this Act applies or not), and which is proclaimed as nursery stock to which this Act applies :

“package” means any box, case, sack, or other like receptacle used or capable of being used for containing fruit, vegetables, or nursery stock :

“sell” includes exchange, barter, offer for sale, expose for sale, and have in possession for sale, and all parts of the verb to sell and the term sale have a corresponding meaning :

“vegetable” means any vegetable proclaimed as a vegetable to which this Act applies.

Proclamation of fruits, vegetables, and nursery stock.

4. The Governor may by proclamation proclaim any fruit, vegetable, or nursery stock as a fruit, vegetable, or nursery stock to which this Act applies and may by proclamation revoke or vary any proclamation for the time being in force under this section.

Appointment of inspectors.

5. The Governor may appoint fit and proper persons to be inspectors for the purpose of enforcing this Act.

Power as to regulations.

6. (1) The Governor may make regulations—

(a) prescribing standards of any fruit, vegetables, or nursery stock :

(b) requiring any fruit, vegetables, or nursery stock sold to be graded in accordance with the prescribed standards :

(c) prescribing the mode in which the grade of lots or packages of any fruit, vegetables, or nursery stock for sale shall be indicated :

(d) forbidding the sale of any fruit, vegetable, or nursery stock not graded in accordance with the regulations, or taken from a lot or package on which the grade of the fruit, vegetable, or nursery stock therein contained is not correctly indicated in accordance with the regulations :

(e) forbidding the sale of fruit, vegetables, and nursery stock below the standard prescribed in that behalf :

(f) prescribing pecuniary penalties not exceeding five pounds for breach of any regulation.

(2) The standards prescribed under this Act may be fixed by reference to any one or more of the following :—

(a) dimensions :

(b) shape :

(c) weight :

(d) flavour :

(e) maturity :

(f) ripeness :

(g) decay :

(h) any other quality.

(3) Any

Fruit and Vegetables (Grading) Act.—1934.

(3) Any regulation made under this section may provide that it shall apply—

- (a) to the whole or any part of the State:
- (b) to any fruit, vegetable, or nursery stock produced or sold in any specified part of the State, or sold for any specified purpose.

7. (1) For the purposes of this Act, any inspector may at any Powers of inspectors. reasonable time—

- (a) enter any place whatever and examine any fruit, vegetables, or nursery stock and open any package in that place, but if the owner or person for the time being in charge is present, the inspector shall first call upon him to open the package:
- (b) examine any fruit, vegetables, or nursery stock being conveyed through any street or road or being sold in any street or road, and any package containing the fruit, vegetable, or nursery stock:
- (c) if any package of fruit, vegetables, or nursery stock is falsely marked, efface the false marks and mark in legible characters on the package the words "Falsely marked":
- (d) if any ticket on any lot of fruit, vegetables, or nursery stock is falsely marked or does not comply with the regulations, efface the false marks or destroy the ticket:
- (e) take samples of any fruit, vegetables, or nursery stock in any lot or package.

(2) If there is any contravention of or failure to observe any provision of this Act with respect to any lot or package of fruit, vegetables, or nursery stock the inspector may direct the owner or person for the time being in charge of the lot or package to take all such measures and do all such acts necessary for the proper observance of this Act as the inspector directs. Any person who disobeys or fails to comply with any such direction shall be guilty of an offence and liable to a penalty of not more than twenty pounds.

(3) If an inspector exercises the power contained in paragraph (c) or (d) of subsection (1) with respect to any lot or package of fruit, vegetables, or nursery stock on which the name of any person is marked, or to which a ticket or label containing the name of any person is attached, he shall give notice orally or by letter or telegram to that person within twenty-four hours after taking the action, of the action so taken.

8. (1) Any

Fruit and Vegetables (Grading) Act.—1934.

Power of detention
of inspector.

8. (1) Any inspector may detain for the time necessary to complete his inspection or examination any lot or package of fruit, vegetables, or nursery stock if he has reasonable grounds for believing that with respect thereto there is or has been a contravention of or a failure to comply with this Act.

(2) Any inspector so detaining any fruit, vegetables, or nursery stock shall give the owner when ascertained notice orally or by letter or telegram that the fruit, vegetables, or nursery stock is being detained in storage, or otherwise, as the case may be.

Penalty for
altering marks, &c.

9. Any person who, not being an inspector—

(a) without lawful excuse alters, defaces, or obliterates wholly or partially ; or

(b) without lawful excuse causes to be altered, defaced, or obliterated wholly or partially,

any marks indicating the grade of any fruit, vegetables, or nursery stock or made by any inspector under this Act shall be guilty of an offence and liable to a penalty of not more than twenty pounds, or to imprisonment for any term not more than six months.

Penalty for
obstructing
inspector.

10. Any person who—

(a) resists or obstructs any inspector in carrying out any duties under this Act ; or

(b) refuses to give information, or knowingly gives false information in answer to any reasonable inquiry made by any inspector for the purposes of this Act,

shall be guilty of an offence and liable to a penalty of not more than five pounds for a first offence and of not more than ten pounds for every subsequent offence.

Proceedings for
offences.

11. Subject to section 12, proceedings for offences against this Act shall not be taken except by an inspector, or by a person authorised by the Minister either by a general or special authority.

Exemption of
vendor on con-
viction of actual
offender.

12. (1) Where a seller of fruit, vegetables, or nursery stock is charged with an offence, he shall be entitled upon complaint duly laid by him to have any other person whom he charges as the actual offender brought before the court at the hearing of the charge, and if after the commission of the offence has been proved the seller proves to the satisfaction of the court—

(a) that he used due diligence to enforce the execution of the provisions of this Act ; and

(b) that the said other person committed the offence in question without his knowledge, consent, or connivance, and in contravention of his orders,

the said other person shall be summarily convicted of the offence and the said seller shall be exempt from any penalty. The person

Fruit and Vegetables (Grading) Act.—1934.

so convicted shall in the discretion of the court be also liable to pay any costs incidental to the proceedings.

(2) Where it is made to appear to the satisfaction of any inspector at the time of discovering an offence—

- (a) that the seller has used all due diligence to enforce the execution of the provisions of this Act; and
- (b) by what person the offence has been committed; and
- (c) that it has been committed without the knowledge, consent, or connivance of the said seller and in contravention of his orders,

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the said seller.

13. Any notice which under this Act may be given by letter or telegram shall be deemed to have been given if it is shown that the letter was properly addressed and was prepaid, registered, and posted, or that the telegram was properly addressed and was prepaid and delivered at a post office for despatch. Notice.

14. All proceedings for offences against this Act shall be disposed of summarily. Procedure.

15. The moneys required for the purpose of this Act shall be paid out of moneys provided by Parliament for those purposes. Financial provision.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.