



ANNO SEXTO

GEORGII V REGIS.

A.D. 1915.

No. 1233.

An Act to regulate the Sale of Fruit, and for other purposes, including certain amendments of the Chaff, Hay, and Fruit Act, 1908.

[Assented to, December 23rd, 1915.]

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 "Sale of Fruit Act, 1915." Short title.

2. This Act shall come into force on the first day of October, nineteen hundred and sixteen, which date is in this Act referred to as the commencement of this Act. Commencement of Act.

3. In this Act, unless inconsistent with the context, or some other meaning is clearly intended— Interpretation.

"Case" means any box, case, or other receptacle used, intended to be used, or capable of being used, for containing fruit: Vic. Act 2059, 1906, s. 2.

"Inspector" means an inspector appointed under the Vine, Fruit, and Vegetable Protection Act, 1885, or the Vine, Fruit, and Vegetable Protection Amendment Act, 1910, and includes the chief inspector so appointed: No. 345 of 1885.
No. 1005 of 1910.

"Justice" means a Justice of the Peace for the said State:

"Prescribed" means prescribed by this Act or by regulation:

"Regulation" means regulation made under this Act:

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“Standard case” means a case conforming in measurements and capacity to one of the standards for fruit cases set out in the Schedule or prescribed by regulation, such standard being in force at the time of the particular transaction or matter:

“This Act” includes regulations:

Cf. *Ibid.*, 1906, s. 2.

The verb to sell includes—

- i. to sell, barter, or exchange;
 - ii. to agree to sell, barter, or exchange;
 - iii. to offer, expose, store, have in possession, send, consign, or deliver for or on sale;
 - iv. to receive for sale;
 - v. to cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged;
 - vi. to cause or suffer to be offered, exposed, stored, had in possession, sent, consigned, or delivered for or on sale;
 - vii. to cause or suffer to be received for sale; and
 - viii. to attempt to do any of such acts or things;
- and the word “sale” shall be construed accordingly:

The verb to buy, includes to buy, to receive or accept under an agreement to sell, and to offer to receive or accept or cause or suffer to be received or accepted under an agreement to sell.

Repeal of certain sections of the Act No. 964 of 1908.

4. (1) Sections 10, 11, and 12 of the Chaff, Hay, and Fruit Act, 1908, are hereby repealed.

Further amendments thereof.

(2) The Chaff, Hay, and Fruit Act, 1908, is hereby further amended as follows:—

- i. Section 1 is amended by substituting the words “Chaff and Hay” for the words “Chaff, Hay, and Fruit.”
- ii. Section 2 thereof is amended by striking out the definitions of “standard case” and “standard half-case.”
- iii. Subsection (1) of section 14 is amended by striking out the words “or fruit” in the third line thereof, the word “packed” in the fourth line thereof, and the words “and measure any case of fruit or fruit case there found,” and the words “or measured,” in subdivision (a) thereof.

Effect of repeal and amendments.

(3) Such repeal or amendments shall not—

- (a) alter the effect of the doing or omission of anything, or
- (b) affect any offence committed, or
- (c) affect any liability, forfeiture, or penalty incurred or imposed or liable to be imposed by reason of anything done or of the omission of anything, before

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before the commencement of this Act; and any legal or other proceedings commenced before the commencement of this Act or thereafter to be commenced, with respect to any of such matters or things, may be continued, or commenced and continued, as if such repeal had not taken place.

5. (1) No person shall sell or buy any fruit which is not at the time contained in one or more standard cases: Provided that this section shall not apply to—

Fruit to be sold only in standard cases. 964, 1908, s. 11, altered.

- (a) dried, preserved, tinned, or canned fruit:
- (b) fruit sold by weight, measure of capacity, or number, the quantity sold at one time of any one kind of fruit being less than twenty pounds in weight:
- (c) fruit sold in baskets, buckets, casks, tubs, or punnets:
- (d) fruit sold in trays none of which contains more than one layer:
- (e) any particular fruit which the Governor by regulation exempts from the provisions of this Act:
- (f) any kind of fruit sold in such cases, or sold in such circumstances, as the Governor by regulation exempts from the provisions of this Act as regards that particular kind of fruit:
- (g) fruit sold to a person for the time being registered as a factory buyer pursuant to section 10, provided that it is sold—
 - I. by weight, and
 - II. to be used for the manufacture or preparation of articles used for food or drink:
- (h) fruit sold to a person for the time being registered as a buyer for export, pursuant to section 11, for the purpose of export to any place outside the said State, and delivered at a packing store registered pursuant to section 12: Provided that the fruit—
 - I. is sold at a price per standard case, and
 - II. is not sold for export to Broken Hill or to any place on the railway between Cockburn and Broken Hill.

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

6. (1) Until otherwise prescribed, the standards for fruit cases shall, for the purposes of this Act, be the cases named and described in the Schedule.

Standards prescribed for fruit cases. Ibid., s. 10, altered.

(2) The

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(2) The Governor may by regulation—

(a) prescribe standards for fruit cases in addition to those named in the Schedule and fix the respective measurements and capacities thereof, and such additional cases shall, subject to subsection (3) of section 14, be standards for fruit cases for the purposes of this Act:

(b) substitute new standards for fruit cases for all or any of the standards named in the Schedule or prescribed by regulation, and fix the respective measurements and capacities thereof, and thereupon such substituted standards shall, subject to subsection (3) of section 14, be standards for fruit cases for the purposes of this Act, and the standards for which they are substituted shall cease to be in force.

Margin of variation from standard to be allowed.

Cf. Vic. 2059, 1906, s. 4 (2).

7. Notwithstanding anything in this Act, if a fruit case is of the shape necessary in order to comply with the measurements prescribed for any of the standard cases, such case shall be deemed for the purposes of this Act, to be of the prescribed measurements if any excess or deficiency in the cubic capacity of such case does not exceed in the whole two and one half per centum of the cubic capacity prescribed for the said standard case.

Case to show maker's name and address, and guarantee.

Ibid., s. 6.

8. No person shall sell any fruit in a case unless such case complies with the following rules:—

i. There must be legibly and durably impressed, printed, or marked in a conspicuous position, at one or both ends on the outside of the case—

(a) the name and address of the maker of the case ;
and,

(b) the words “ Guaranteed by maker to contain (*here must be stated the quantity in bushels or other measurement, according to the capacity of the standard to which the case should conform*). ”

ii. Such name and address and guarantee must be impressed, printed, or marked as aforesaid within a space measuring not more than four inches nor less than three inches in length, and not more than two inches nor less than one and a half inches in width.

Offence to falsely mark case or to alter case or mark.

Ibid., ss. 8 (d) and 9.

9. (1) No person shall place, cause, or suffer to be placed on a case any guarantee required by section 8 which is incorrect in any particular.

(2) No person shall alter the size, shape, or any of the measurements of, or in any way tamper with, any case bearing a maker's name and address and any guarantee required by section 8, or wilfully deface or alter or in any way tamper with such name or address or guarantee.

10. (1) Any

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10. (1) Any occupier of premises 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.

(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 kind of such fruit 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.

11. (1) Any buyer of fruit for export, and any agent of such buyer, may, on application as prescribed and on compliance with the prescribed conditions, be registered in the prescribed manner as a buyer for export for the purposes of this Act.

Registration of buyers for export and records to be kept.

(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

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- (b) the date when purchased ;
- (c) the quantity, stated in standard bushel cases, of each variety of each kind of fruit included in the purchase ;
- (d) the places to which such fruit is to be exported ;
- (e) the quantity, stated in standard bushel cases, of each variety of each kind of such fruit which is to be exported to each place ;
- (f) 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.

Registration of packing stores.

12. (1) The occupier of any premises may, on application as prescribed and on compliance with the prescribed conditions, have such premises registered in the prescribed manner as a packing store for the purposes of this Act.

(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.

Powers of Inspector.
Cf. Act 964, 1908,
s. 14.

13. (1) Any inspector may, at any time during the day time, enter upon any land or into any warehouse, store, shop, building, or other premises where fruit is or may reasonably be supposed to be sold or to be packed or kept for sale, and may—

- (a) measure any case, whether containing fruit or not, there found, and if necessary may 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 in the discharge of any of his duties or the exercise of any of his powers under this Act.

Regulations.

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

Publication and effect.

(2) Every such regulation—

- (a) shall be published in the *Government Gazette* :
- (b) shall, subject to subsection (3) hereof, take effect from the date of such publication, or from a later date to be fixed by the order whereby the same is made ; and
- (c) shall

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(c) shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is in Session, and if not, then within fourteen days after the commencement of the next Session.

(3) If either House of Parliament passes a resolution disallowing any such regulation of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

Disallowance by Parliament.

This subsection shall apply notwithstanding that the said fourteen days, or some of them, do not occur in the same Session or Parliament as that in which the regulation is laid before such House.

(4) When a resolution has been passed, as mentioned in subsection (3) hereof, notice of such resolution shall be published in the *Government Gazette*.

Notice of disallowance to be published.

15. (1) Any contravention of or failure to observe any provision of this Act, whether by act or omission, shall be an offence against this Act.

General penalty.

(2) Any person guilty of an offence against this Act shall be liable to a penalty for a first offence of not more than Twenty Pounds, and for any subsequent offence of not less than Two Pounds nor more than Fifty Pounds.

16. (1) All proceedings in respect of offences against this Act shall be by information heard and determined in a summary way by a Special Magistrate or any two Justices, and shall be regulated by the Ordinance No. 6 of 1850 and any amendment thereof, or any other Act or Acts regulating summary proceedings before Justices.

Summary proceedings.

(2) All convictions and orders made by such Magistrate or Justices may be enforced as provided by the said Ordinance or any other such Acts as aforesaid.

17. (1) There shall be an appeal from—

Appeal to Local Court.

(a) any conviction by any Special Magistrate or Justices ;

(b) any order of a Special Magistrate or Justices dismissing any information ; or

(c) any other order made by a Special Magistrate or Justices, under this Act.

(2) Such appeal shall be to the Local Court of Adelaide of Full Jurisdiction.

(3) The proceedings on such appeal shall be regulated by the said Ordinance No. 6 of 1850 and any amendments thereof, or any other

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other Act or Acts in force regulating appeals to Local Courts: Provided that the Local Court may make such order as to costs as it thinks fit, and the amount of costs ordered may exceed Ten Pounds.

Local Court may state a case for opinion of Supreme Court.

18. (1) The Local Court on the hearing of any such appeal may state a special case or cases for the opinion of the Supreme Court.

(2) The Supreme Court shall hear and decide any such special case according to the practice of the Supreme Court on special cases, and may make such order as to the costs of such special case as to the said Court appears just.

(3) The Supreme Court may send the special case back for amendment, or may itself amend the same.

(4) The Magistrate or Justices, or the Local Court, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the Supreme Court, or of a Judge thereof.

(5) Such order of the Magistrate or Justices, or Local Court, shall be enforced in manner provided by section 16 or otherwise by law.

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

H. L. GALWAY, Governor.

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THE SCHEDULE.

STANDARDS FOR FRUIT CASES.

Sec. 6.

Name of Case.	Description of Case—	
	Inside Measurements, clear of all divisions.	Capacity.
Bushel case	Eighteen inches by fourteen and one-quarter inches by eight and two-thirds inches	Not less than one imperial bushel or cubical content of two thousand two hundred and twenty - three cubic inches.
Bushel case	Twenty-six inches by six inches by fourteen and one-quarter inches	Not less than one imperial bushel or cubical content of two thousand two hundred and twenty - three cubic inches.
Bushel case	Twenty inches by ten inches by eleven and one-eighth inches	Not less than one imperial bushel or cubical content of two thousand two hundred and twenty-five cubic inches.
Half case	Eighteen inches by eight and two-thirds inches by seven and one - eighth inches	Not less than one-half imperial bushel or cubical content of one thousand one hundred and eleven and one-half cubic inches.
Half case	Twenty-six inches by six inches by seven and one-eighth inches.	Not less than one-half imperial bushel or cubical content of one thousand one hundred and eleven and one-half cubic inches.
Half case	Eighteen inches by eleven and three-quarters inches by five and one-quarter inches.	Not less than one-half imperial bushel or cubical content of one thousand one hundred and ten inches.
Quarter case	Thirteen and three-quarters inches by ten and one-eighth inches by four inches	Not less than one-quarter imperial bushel or cubical content of five hundred and fifty-six and seven-eighths cubic inches.