

(4) Any fruit that are so detained shall, at all times during the detention thereof, be held at the risk and charges of the owner thereof.

(5) An inspector who so detains any fruit shall give or cause to be given to the owner, when ascertained, notice, orally or by letter or telegram, that the fruit are being detained.

(6) A notice under subsection (5) of this section shall specify the place where the fruit are being detained.

(7) In paragraph IV. of subsection (1) of this section, 'the prescribed period' means such period as may be prescribed for the purposes of that paragraph, either generally or in respect of any particular variety or grade of fruit.

(8) In this section, 'fruit to which this section applies' means fruit that are intended for shipment from this State or for sale for consumption or processing in this State."

Regulations.

8 Section thirty-one of the Principal Act is amended by omitting subsection (2) and substituting therefor the following subsection:—

"(2) In addition to any other matters that are required or permitted by this Act to be prescribed, the regulations may—

- I. Regulate the taking of samples of fruit for analysis: and
- II. Prohibit the sale of fruit for consumption or processing in this State otherwise than in accordance with such conditions (including conditions as to the prices to be charged in respect of the sale for processing of different varieties and grades of fruit) as the Governor, on the recommendation of the Board, may prescribe."

FRUIT AND VEGETABLES.

No. 53 of 1953.

AN ACT to provide for the inspection and grading,
and regulate the packing and sale, of fruit and
vegetables. [16 November, 1953.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and com-
mencement.

1—(1) This Act may be cited as the *Fruit and Vegetables Act 1953*.

(2) This Act shall commence on a date to be fixed by proclamation.

2 In this Act, unless the contrary intention appears—

Interpretation.

“deleterious substance” means a substance that is declared by the Minister, by notice published in the *Gazette*, to be a deleterious substance for the purposes of this Act;

Cf. No. 3687 (Vic.) s. 41. No. 2192 of 1934 (S.A.), s. 3.

“foreign substance” includes earthy matter, stones, sand, and gravel, and any other substance that is declared by the Minister, by notice published in the *Gazette*, to be a foreign substance for the purposes of this Act;

“fruit” means fruit (other than apples and pears) that are declared by the Minister, by notice published in the *Gazette*, to be fruit to which this Act applies;

“inspector” means a person who is an inspector for the purposes of this Act;

“lot” means a quantity of fruit or vegetables that is not contained in a package;

“package” means a box, case, sack, or like receptacle that is used, or capable of being used, for containing fruit or vegetables;

“sell” includes exchange, barter, offer for sale, expose for sale, and have in possession for sale;

“vegetables” means vegetables that are declared by the Minister, by notice published in the *Gazette*, to be vegetables to which this Act applies.

3 The Minister may, by notice under his hand published in the *Gazette*, declare—

Powers of Minister. S.A., s. 4.

- (a) any fruit to be fruit to which this Act applies; or
- (b) any vegetables to be vegetables to which this Act applies,

and may, by a like notice so published, at any time revoke or amend a notice under this section.

4—(1) The Governor may, under and in accordance with the provisions of the *Public Service Act* 1923, appoint such inspectors as he considers necessary for the purposes of this Act.

Appointment of inspectors. Vict., s. 42. S.A., s. 5.

(2) A person who is an inspector under the *Plant Diseases Act* 1930 is, by virtue of his office as such and without further appointment, an inspector for the purposes of this Act.

5—(1) Except as provided by the regulations, no person shall, whether by himself or by an agent or servant—

Packing, grading, and sale of fruit and vegetables. Vict., s. 43.

- (a) pack fruit or vegetables that are intended for sale in a package unless—

- (i) the fruit or vegetables are packed and graded as prescribed; and

- (ii) the package complies with the requirements of subsection (2) of this section;
- (b) sell fruit or vegetables that are contained in a package—
 - (i) if the fruit or vegetables are not packed and graded as prescribed; or
 - (ii) if the package does not comply with the requirements of subsection (2) of this section;
- (c) sell the whole or any part of a lot, or any fruit or vegetables taken from a lot, unless, if the regulations so require, the lot is stacked or arranged as prescribed, and the fruit or vegetables are graded as prescribed, and there is in a conspicuous position on the lot a ticket marked as prescribed;
- (d) sell fruit or vegetables to which there is adhering, or on or in which there is, a greater quantity of a deleterious substance than is permitted by the regulations; or
- (e) sell fruit or vegetables that are below the prescribed standard.

Penalty: For a first offence, ten pounds; for a subsequent offence, not less than five pounds or more than fifty pounds.

(2) A package in which fruit or vegetables are packed for sale shall comply with the following requirements, namely:—

- (a) The package shall be of the prescribed description, kind, materials, capacity, dimensions, and measurements, and shall be in the prescribed condition;
 - (b) The package shall be marked as prescribed, and, if the regulations so require, shall contain or have affixed to it a slip or label containing the prescribed particulars, statements, information, or words; and
 - (c) The package shall not contain a greater quantity of a foreign substance, or any wrappers, packing material, or advertising matter than is permitted by the regulations.
- (3) The regulations may—
- (a) exempt from the operation of all or any of the provisions of this section; or
 - (b) provide that the provisions of this section shall apply, with such modifications as may be prescribed, to,

the packing or sale, or packing and sale, of fruit or vegetables or both, or any prescribed variety, kind, or class thereof, for such purposes, or in such circumstances, or by such persons or classes of persons, as may be prescribed.

6—(1) An inspector may—Powers of
inspector.Vict., s. 44.
S.A., s. 7.

- (a) enter and inspect any place (not being a dwelling-house) and examine any fruit or vegetables that are in, on, or about that place, and open and examine any package that is in, on, or about that place;
- (b) on payment or tender of the current market price therefor, or of the prescribed payment, to the owner or person in charge of any fruit or vegetables that are in, on, or about a place for the purposes of sale or are in course of transit from one place to another place, take samples of those fruit or vegetables;
- (c) if he has reasonable cause to believe that a breach of any of the provisions of this Act has been, or is being, committed in relation to any fruit or vegetables that are intended for sale, seize those fruit or vegetables;
- (d) enter any place where fruit or vegetables that are intended for sale are being handled, or are, or are being, stacked or loaded, for the purpose of supervising the handling, stacking, or loading thereof;
- (e) examine any fruit or vegetables, or any packages containing fruit or vegetables, that are being conveyed over a street or road for the purposes of sale, or are being sold in a street or road;
- (f) if any fruit or vegetables in a package are not packed and graded as prescribed, mark in legible characters on the package the words "Falsely packed", or direct the owner or person in charge of the fruit or vegetables, or some other person, so to do;
- (g) if a package of fruit or vegetables is falsely marked, efface the false marks and mark in legible characters on the package the words "Falsely marked", or direct the owner or person in charge of the fruit or vegetables, or some other person, so to do;
- (h) if a ticket on a lot is falsely marked or does not comply with the regulations, efface the false marks or destroy the ticket, or direct the owner or person in charge of the lot, or some other person, so to do; and
- (i) direct the owner or person in charge of any fruit or vegetables that are intended for sale to do such acts and things and take such measures as the inspector may think necessary for the proper observance of the provisions of this Act.

(2) Within twenty-four hours after marking a package, or causing a package to be marked, pursuant to paragraph (f) or paragraph (g) of subsection (1) of this section, the inspector by whom the package is marked shall give notice,

or cause notice to be given, orally or by letter or telegram, to the person whose name is marked on the package or on a slip or label contained in or affixed thereto as the packer or to the agent of that person.

(3) No person shall contravene or fail to comply with a direction that is lawfully given to him by an inspector under this section.

Penalty: Ten pounds.

Power of
inspector to
detain fruit
or vegetables.
Vict., s. 45.
S.A., s. 8.

7—(1) An inspector may detain a package or lot for the time that, in his opinion, is necessary to complete his inspection or examination thereof, if he has reasonable grounds for believing that with respect thereto there is or has been a contravention of, or failure to comply with, this Act.

(2) Any fruit or vegetables that are so detained shall, at all times during the detention thereof, be at the risk and charges of the owner thereof.

(3) An inspector who so detains any fruit or vegetables shall give or cause to be given to the owner, when ascertained, notice, orally or by letter or telegram, that the fruit or vegetables are being detained.

(4) A notice under subsection (3) of this section shall specify the place where the fruit or vegetables are being detained.

Penalty for
altering, &c.,
marks on
packages.
Vict., s. 46.
S.A., s. 9.

8 No person, not being an inspector, shall—

(a) wilfully alter, deface, or obliterate; or

(b) cause to be altered, defaced, or obliterated,

any marks that are made on a package by an inspector, or by some other person by direction of an inspector, in pursuance of this Act.

Penalty: For a first offence, ten pounds; for a subsequent offence, not less than five pounds or more than fifty pounds.

Exemption of
vendor on
conviction of
actual
offender.
S.A., s. 12.

9—(1) Where a seller of fruit or vegetables is charged with an offence, he is entitled, upon complaint laid by him, to have any other person whom he charges as the actual offender brought before the court on 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 observance of the provisions of this Act; and

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

the other person shall be convicted of the offence and the seller shall be exempt from any penalty, and the other person 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 an inspector at the time of discovering an offence against this Act—

(a) that the seller has used all due diligence to enforce the observance of the provisions of this Act;

(b) by what person the offence has been committed; and

(c) that it has been committed without the knowledge, consent, or connivance of the 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 seller.

10 In proceedings in respect of offences against this Act— Evidentiary provisions.

(a) no proof is required of the authority of an inspector to take proceedings or of the appointment of an inspector; and Vict., s. 51.
25 Geo. V. No. 49 (Tas.),
s. 30(2).

(b) the person whose name is marked on the outside or inside of a package of fruit or vegetables or on a slip or label that is contained in, or attached to, a package of fruit or vegetables as the packer thereof shall, until the contrary is proved, be deemed to be the packer thereof.

11 Proceedings in respect of offences against this Act may be taken by an inspector who is authorized in that behalf by the Minister, either generally or in a particular case or class of cases. Legal proceedings.
S.A., s. 11.
Tas., s. 30(1).

12—(1) The Governor may make regulations for the purposes of this Act. Regulations.
Vict., s. 54.
S.A., s. 6.

(2) In particular, and without prejudice to the generality of subsection (1) of this section, the regulations may, in addition to prescribing any other matters that are required or permitted by this Act to be prescribed—

(a) prescribe standards for fruit and vegetables;

(b) require fruit and vegetables to be graded in accordance with the prescribed standards;

(c) prescribe the mode in which the grade of fruit or vegetables contained in lots or packages for sale shall be indicated;

(d) regulate the taking of samples of fruit and vegetables;

(e) prescribe the fees to be paid in respect of the inspection and examination under this Act of fruit, vegetables, and packages; and

(f) prescribe penalties, not exceeding fifty pounds, for offences against the regulations.

(3) The regulations may prescribe different standards for different varieties, kinds, or descriptions of fruit and of vegetables.

(4) A standard that is prescribed under this Act may be prescribed by reference to all or any of the following matters, namely:—

(a) The—

- (i) dimensions;
- (ii) shape;
- (iii) weight;
- (iv) flavour;
- (v) maturity;
- (vi) ripeness;
- (vii) decay;
- (viii) freedom from disease (as defined in the regulations); and
- (ix) freedom from a prescribed kind of injury; and

(b) Any other prescribed quality, of the fruit or vegetables, or of the variety, kind, or description of fruit or vegetables, as the case may be, to which the standard relates.

(5) A regulation under this Act may be made so as to apply—

- (a) to the whole or a specified part of the State; or
- (b) to fruit or vegetables that are grown in a specified part of the State or are sold for a specified purpose.

PLACES OF PUBLIC ENTERTAINMENT.

No. 54 of 1953.

AN ACT to amend the *Places of Public Entertainment Act 1917*.
[16 November, 1953.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title
and citation.

1—(1) This Act may be cited as the *Places of Public Entertainment Act 1953*.

(2) The *Places of Public Entertainment Act 1917*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpreta-
tion.

2 Section three of the Principal Act is amended by inserting before the definition of “Inspector” the following definition:—

“ ‘Director’ means the Director of Public Health:”.