

FRUIT BOARD.

No. 52 of 1953.

AN ACT to amend the *Fruit Board Act 1934*.
[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:—

- 1**—(1) This Act may be cited as the *Fruit Board Act 1953*. Short title and citation.
(2) The *Fruit Board Act 1934*, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section three of the Principal Act is amended—

(a) by inserting before the definition of “Fruit” the following definitions:—

“‘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 Part VI. B:

“‘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 Part VI. B.”;

(b) by inserting after the definition of “Fruit grower” the following definition:—

“‘Lot’ means a quantity of fruit that is not contained in a package.”; and

(c) by adding at the end thereof the following definitions:—

“‘Package’ means a box, crate, sack, or like receptacle that is used, or capable of being used, for containing fruit:

“‘Sell’ includes exchange, barter, offer for sale, expose for sale, and have in possession for sale.”.

Interpretation.

Disqualification.

3 Section seven of the Principal Act is amended by inserting in paragraph v., after the word "contract" (last occurring), the words "or, in the case of a contract with a member of the Board for the sale of fruit by that member to the Board or the disposal of fruit by that member through the Board, if the contract is made upon terms and conditions that are not more favourable to that member than the terms and conditions offered by the Board to other registered fruit growers".

Funds.

4 Section fifteen of the Principal Act is amended by omitting the word "and", at the end of paragraph II., and by adding at the end thereof the following paragraph:—

" : and

" VI. All interest accruing due, on and after the commencement of the *Fruitgrowers' Defence Fund Act 1953*, on the securities and moneys that are vested in the Board pursuant to the *Fruitgrowers' Defence Fund Act 1945*."

Powers of inspectors: Procedure.

5 Sections twenty-two and twenty-three of the Principal Act are repealed.

6 After section twenty-four G of the Principal Act the following Part is inserted:—

"PART VI. B.

"PROVISIONS RELATING TO THE GRADING, PACKING, AND SALE OF FRUIT OFFERED FOR SALE IN THIS STATE.

"24H.—(1) Except as provided by the regulations, no person shall, whether by himself or by an agent or a servant—

I. Pack fruit that are intended for sale in a package unless—

(a) The fruit are packed and graded as prescribed: and

(b) The package complies with the provisions of subsection (2) of this section:

II. Sell fruit that are contained in a package—

(a) If the fruit are not packed and graded as prescribed: or

(b) If the package does not comply with the provisions of subsection (2) of this section:

III. Sell the whole or any part of a lot, or any fruit taken from a lot, unless, if the regulations so require—

(a) The lot is stacked or arranged as prescribed:

(b) The fruit are graded as prescribed: and

(c) There is in a conspicuous position on the lot a ticket marked as prescribed:

Packing and sale of fruit for local consumption, &c.
Cf. No. 3687
(Vic.) s. 43.

- iv. Sell fruit to which there is adhering, or in or on which there is, a greater quantity of a deleterious substance than is permitted by the regulations: or
- v. Sell fruit 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 are packed for sale shall comply with the following requirements, namely:—

- I. The package shall be of the prescribed description, kind, materials, capacity, dimensions, and measurements, and shall be in the prescribed condition:
- II. 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
- III. The package shall not contain a greater quantity of a foreign substance, or of any wrappers, packing material, or advertising matter, than is permitted by the regulations.

(3) The regulations may—

- I. Exempt from the operation of all or any of the provisions of this section: or
- II. 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 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.

“ 24J. No person, not being an inspector, shall—

- I. Wilfully alter, deface, or obliterate: or
- II. Cause to be altered, defaced, or obliterated,

a mark that has been made, pursuant to section twenty-six A, by an inspector or by some other person by direction of an inspector on a package containing fruit for sale.

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

Penalty for altering marks on packages.
Ibid., s. 46.

Exemption of seller on conviction of actual offender.

Ibid., s. 50, No. 2192 of 1934 (S.A.), s. 12.

“24K.—(1) Where a seller of fruit is charged with an offence under this Part, he is entitled, upon complaint 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—

- I. That he used due diligence to enforce the observance of the provisions of this Part: and
- II. 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 the provisions of this Part—

- I. That the seller has used all due diligence to enforce the observance of the provisions of this Part:
- II. By what person the offence has been committed: and
- III. 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.”.

7 After section twenty-six of the Principal Act the following section is inserted:—

Powers of inspectors.

“26A.—(1) An inspector may at any reasonable time—

- I. Enter and inspect any place (not being a dwelling-house) and examine any fruit to which this section applies that are in, on, or about that place, and open and examine any package that is in, on, or about that place;
- II. 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 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:
- III. 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 thereto, seize any fruit to which this section applies:
- IV. If he is of the opinion that any fruit that are intended for shipment from this State are likely to become over-ripe within the prescribed period, seize those fruit and give to the owner or person in charge thereof such directions, with respect to the disposal of those fruit or otherwise, as the inspector may think desirable in the circumstances:

- v. Enter any place where fruit to which this section applies are being handled, or are, or are being, stacked or loaded, for the purpose of supervising the handling, stacking, or loading thereof:
- vi. Direct the person in charge of any fruit to which this section applies to do such acts and things, and take such measures, as the inspector thinks necessary for the proper observance of the provisions of this Act:
- vii. Pass for shipment any fruit that are intended for shipment from this State, or, in a case to which paragraph iv. of this subsection relates, refuse to pass the fruit for shipment:
- viii. Examine any fruit to which this section applies, or any packages containing fruit to which this section applies, being fruit that are being conveyed over a street or road for the purposes of sale, or are being sold in a street or road:
- ix. If a package containing fruit to which this section applies 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 some other person, so to do:
- x. If fruit to which this section applies, being fruit that are 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 some other person, so to do: and
- xi. If a ticket on a lot of fruit to which this section applies is falsely marked, efface the false marks or destroy the ticket, or direct the owner or person in charge of the fruit, or some other person, so to do.

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

Penalty: Ten pounds.

(3) An inspector may detain—

- I. Any fruit to which this section applies in respect of which he has reasonable grounds for believing that there has been a contravention of, or failure to comply with, any of the provisions of this Act, for such time as, in his opinion, is necessary to complete his inspection or examination thereof: or
- II. Any fruit that, in the opinion of the inspector, are likely to become over-ripe within the prescribed period, for such time as may be necessary to enable the owner or person in charge thereof to make arrangements for giving effect to the directions of the inspector with respect to the disposal thereof.

(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.