

I

PUBLIC ACTS

OF THE

PARLIAMENT OF QUEENSLAND,

11° AND 12° GEO. VI.

AGRICULTURAL BANK.

See BANKING.

AGRICULTURE.

An Act to Consolidate and Amend the Law relating to the Packing for Sale and Sale of Fruit and Vegetables, and for other purposes.

11 GEO. VI.
No. 29.
FRUIT AND
VEGETABLES
ACT OF 1947.

[ASSENTED TO 20TH NOVEMBER, 1947.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Fruit and Vegetables Act of 1947.*" Short title.

*2. Except as herein otherwise provided, this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*. Commencement of Act.

3. This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment hereof would but for this section have been 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 of Act.

4. † "*The Fruit and Vegetables Acts, 1927 to 1939,*" are hereby repealed: Repeal of—
18 Geo. V.
No. 3; s. 8 of
26 Geo. V.
No. 17;
3 Geo. VI.
No. 25.

* Commenced 11th December, 1947. (*See* Proclamation published in *Gazette*, 13th December, 1947, page 2277).

† 18 G. 5 No. 3 and amending Acts.

- Savings. Provided that, but without limiting the operation of "*The Acts Shortening Acts*"—
- Regulations. (a) Every regulation made under the repealed Acts in force when this Act comes into operation shall, subject as hereinafter provided, continue in force until it is repealed or amended under this Act :
 Provided that every such regulation shall, while it so continues in force, be read and construed subject to this Act ;
- Authorities. (b) Every act of authority originated under the repealed Acts and subsisting when this Act comes into operation shall continue in full force and effect and shall so far as is consistent with this Act be deemed to have been originated under and for the purposes of this Act ;
- Penalties. (c) All penalties and forfeitures imposed under any provision of the repealed Acts and incurred at the coming into operation of this Act shall and may be enforced as if the repealed Acts had not been repealed ;
- Proceedings. (d) All matters and proceedings under the repealed Acts commenced or pending when this Act comes into operation may be carried on and prosecuted as if such repeal had not been made, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything contained in this Act.
- Meaning of terms **5. (1.)** In this Act, unless the context otherwise indicates or requires, the following terms have the meanings respectively assigned to them, that is to say :—
- Class. "Class"—As respects fruit or vegetables, means their use for consumption whether as fresh fruit or vegetables or as cooked, processed, or otherwise treated fruit or vegetables ;
- Clean. "Clean"—When used in relation to any package, means freedom from any insect, fungus, bacterial or virus disease of fruit or vegetables ; and also freedom from dirt, unsightly stains, or other contamination which, in the opinion of the inspector, is likely to render the package unfit for the packing and sale of fruit or vegetables ;

- “Diameter”—When used in relation to fruit or vegetables, means the linear measurements taken through the widest part of any fruit or vegetables at right angles to the axis of the stem and the calyx or apex ; Diameter.
- “Disease”—When used in relation to fruit or vegetables, means any abnormal condition and includes any condition arising from functional disorders or caused by or due to the presence, operation, development, growth, or decay of any insect, bacterium, fungus, or virus ; Disease.
- “Dried fruits”—Dried currants, dried sultanas, lexias, dried apricots, dried nectarines, dried peaches, dried pears, dried prunes, dates, and any other fruits that have been dried : and for the purposes of this interpretation fruits shall be deemed to be dried if they are completely dried or are in the process of being dried ; Dried fruits.
- “False mark”—Any mark, description, brand, or writing of any kind whatsoever relating or purporting to relate to any fruit or vegetables or to any package or lot of fruit or vegetables which, by reason of anything contained therein or thereon, or omitted or removed therefrom, either wholly or in part, is false or misleading in a material particular with respect to— False mark.
- (a) The appearance, class, cleanness, colour, flavour, freshness, kind, maturity, number, packing, quality, ripeness, size, soundness, texture, variety, or weight of such fruit or vegetables or any of them ; or
 - (b) The capacity, cleanness, description, dimensions, kind, materials, or measurements of such package ; or
 - (c) The name and address of the packer of such fruit or vegetables or the packer's registered brand ; or

(d) The place or locality in or at which such fruit or vegetables were produced or packed ;

and includes every alteration of any brand, description, mark, card, disc, label, sign, slip, tag, ticket, or writing of any kind whatsoever, whether by way of addition, effacement, removal, replacement, or otherwise, which makes the marking incomplete or false, or likely to mislead in a material respect.

Falsely packed.

“ Falsely packed ”—Packed in any way other than as prescribed ;

Foreign substances.

“ Foreign substances ”—Means, in relation to fruit or vegetables, soil, stones, sand, gravel, or any other earthy matter whatsoever ;

Fruit.

“ Fruit ”—Apples, apricots, avocados, bananas, cape gooseberries, cherries, custard apples, figs, gooseberries, granadillas, grapes, grapefruit, lemons, loquats, mandarins, mangoes, melons, mulberries, nectarines, oranges, papaws, passion fruit, peaches, pears, persimmons, pineapples, plums, quinces, strawberries, tomatoes, and any other fruits or dried fruits marketed in Queensland ;

Grade.

“ Grade ”—As respects fruit or vegetables, means having relation as prescribed to all or any of the following, that is to say—appearance, class, cleanness, colour, flavour, freshness, kind, maturity, number, packing, quality, ripeness, size, soundness, texture, variety, weight ;

Inspector.

“ Inspector ”—Any inspector appointed under **“ The Diseases in Plants Acts, 1929 to 1937,”* or any person authorised by the Minister either generally or specifically ;

Minister.

“ Minister ”—The Secretary for Agriculture or other Minister of the Crown for the time being charged with the administration of this Act ;

Package.

“ Package ”—Any bag, box, case, sack, or other receptacle used or capable of being used for containing fruit or vegetables ;

* 20 G. 5 No. 11 and amending Acts.

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- “Packing material”—Means strawboard, wood-wool, wrapping paper, or other material used in packing fruit or vegetables ; Packing material.
- “Packer”—A producer of fruit or vegetables who packs the same for sale or causes the same to be packed for sale ; and the owner or, where the owner is not in Queensland, the manager in Queensland of any business in the course of which fruit or vegetables is or are packed for sale ; Packer.
- “Person”—The term includes any body corporate ; Person.
- “Place”—Includes any land, building, structure, orchard, vessel, aircraft, railway station, wharf, warehouse, market, stall, shop, store, factory, yard, shed, barrow, and any vehicle, stand, or premises whatsoever ; Place.
- “Prescribed”—Prescribed by this Act ; Prescribed.
- “Registered brand”—A trade mark within the meaning of the †*Trade Marks Act 1905-1936* of the Commonwealth and registered under that Act ; Registered brand.
- “Regulations”—Regulations made under the authority of this Act ; Regulations
- “Sell”—When used in relation to fruit and vegetables, means sale by wholesale or retail sale, and includes barter or exchange and also includes agreeing to sell, or offering or exposing for sale, or keeping or having in possession for sale, or receiving, sending, forwarding, or delivering for or on sale, or authorising, causing, permitting, suffering, or attempting any of such acts or things ; Sell.
- “Size”—When used in relation to fruit or vegetables, means the diameter or size of any fruit or vegetables measured from side to side through the widest part of the fruit or vegetables at right angles to the axis of the stem and the calyx or apex ; Size.
- “Sound”—When used in relation to fruit or vegetables, means freedom from damage or decay from whatever cause arising ; and also means freedom from any disease ; Sound.

† No. 20 of 1905 of the Commonwealth and amending Acts.

This Act.	“ This Act ”—This Act and all Proclamations, notifications, and regulations made thereunder ;
Vegetables.	“ Vegetables ”—Asparagus, beans, broccoli, brussel sprouts, cabbages, cauliflowers, carrots, celery, cucumbers, egg fruit, eschallots, leeks, lettuce, marrows, onions, parsnips, peas, potatoes, pumpkins, radish, rhubarb, squash, swede turnips, sweet potatoes, turnips, or any other vegetable marketed in Queensland ;
Writing.	“ Writing ”—Includes any words reproduced by any means whatsoever so as to be capable of being read by sight ;

(2.) All derivatives of any term to which a meaning is assigned by this section shall have a corresponding meaning.

Packing for sale and sale of fruit and vegetables.

6. (1.) A person shall not—

- (a) Pack for sale any fruit or vegetables which is or are not packed and graded as prescribed ;
or
- (b) Pack for or on sale any fruit or vegetables in, or sell any fruit or vegetables contained in, a package which is not clean ; or
- (c) Pack for sale any fruit or vegetables in, or sell any fruit or vegetables contained in, a package which is not of the prescribed dimensions as respects size or measurements or capacity ; or
- (d) Sell the whole or any part of any package or lot of fruit or vegetables which does or do not comply with the prescribed grade standards ;
or
- (e) Pack for sale or sell any fruit or vegetables in any package or in any lot—
 - (i.) Containing foreign substances in excess of the prescribed maximum quantity thereof permitted to be included in such package or lot ; or
 - (ii.) (In the case of any such package), containing packing material, wrapping material, or advertising matter exceeding the prescribed maximum quantity permitted to be included in such package.

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(2.) The provisions of subsection one of this section relating to the packing for sale of fruit or vegetables shall apply and extend to and with respect to all or any fruit or vegetables packed in Queensland for sale, whether the actual sale thereof is, or is to become, effective in Queensland or elsewhere.

7. Where the fruit or vegetables appropriated to any sale by retail are selected from the contents of any package or lot thereof by the seller, such seller, if requested by the buyer, shall remove the wrappers, if any, from all of the fruit and vegetables so selected before delivering same to the buyer.

Wrappers to be removed by seller.

8. A person selling by retail fruit and/or vegetables in, upon, or from any place shall not refuse to sell on demand the whole or any part of any lot of fruit or vegetables displayed in or upon such place.

Seller to sell on demand fruit and vegetables which are displayed.

9. A person shall not sell by retail the whole or any part of any fruit or vegetables or variety of fruit or vegetables contained in any package or lot with respect to which fruit or vegetables or such variety grade standards according to class have been prescribed unless the particular class of such fruit or vegetables or variety of fruit or vegetables is prominently marked so as to be easily discernible by any purchaser on such package or on a card placed on or immediately surmounting such lot.

Seller shall prominently mark the class of each variety of fruit or vegetables when grade standards are so prescribed.

10. (1.) A person shall not pack, stack, or arrange fruit or vegetables for sale in any package or lot unless such fruit or vegetables are packed, stacked, or arranged so that the whole of the fruit or vegetables contained in such package or comprised in such lot are of uniform grade throughout and so that so much of such fruit or vegetables as is or are exposed on the surface of, and/or as comprise any external layer on the top, bottom, and sides of, such package or lot is or are a true indication of—

Topping of fruit and vegetables prohibited.

- (a) The average grade throughout of the whole of the fruit or vegetables contained in such package or comprised in such lot ; and
- (b) The manner in which the whole of the fruit or vegetables contained in such package, or comprised in such lot, is or are packed, arranged, or stacked ; and
- (c) The presence of any foreign substances contained in such package or comprised in such lot.

(2.) A person shall not sell any of the fruit or vegetables contained in a package or comprised in a lot which is packed, stacked, or arranged in contravention of this section.

Marking of packages.

11. (1.) Any person who packs for or on sale by wholesale fruit or vegetables in any package shall legibly and durably mark on the outside of such package—

- (a) The initials (or the Christian name), full surname and address or in the case of a corporation or unincorporated association the name and address of the packer, or in every case the packer's registered brand, or if the packer is a firm registered as such under **"The Registration of Firms Act of 1942,"* the name or registered brand of such firm ; and
- (b) The designation of the grade of such fruit or vegetables, if grade standards therefor are prescribed,

and shall completely obliterate or remove from such package any other name, brand, or mark of any kind whatsoever appearing thereon.

(2.) Marking as hereinbefore in this section specified shall be in letters of not less than three-quarters of an inch in height, otherwise the package concerned shall be deemed to be not marked in accordance with the requirements of subsection one of this section.

(3.) The provisions of this section shall apply and extend to and with respect to all or any fruit or vegetables packed in Queensland for sale in any package, whether the actual sale thereof is, or is to become, effective in Queensland or elsewhere.

False marking of packages, &c.

12. (1.) A person shall not falsely mark—

- (a) Any package containing fruit or vegetables for sale ; or
- (b) Any card, disc, label, sign, slip, tag, ticket, or writing of any other kind whatsoever inscribed on, affixed to, placed on or in, or otherwise held out in relation to any package containing fruit or vegetables for sale, or placed on or in, surmounting, or otherwise held out in relation to any lot of fruit or vegetables for sale.

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(2.) The provisions of this section shall apply and extend to and with respect to every package containing fruit or vegetables for sale, whether the actual sale thereof is, or is to become, effective in Queensland or elsewhere.

13. A person shall not—

- (a) Alter the size of or otherwise tamper with any package of fruit or vegetables bearing the packer's name and address or the packer's registered brand ; or
- (b) Wilfully deface, alter, or otherwise tamper with the packer's name and address or the packer's registered brand or the designation of the grade of fruit or vegetables on any package.

Altering or tampering with cases.

14. (1.) Any inspector may—

- (a) Enter and inspect any place which he has reasonable grounds for believing is kept or used for the packing for sale or sale of fruit or vegetables, or both fruit and vegetables, or in or upon which he believes upon reasonable grounds fruit or vegetables, or both fruit and vegetables, is or are or has or have been or will be packed for sale or sold, and inspect any such fruit and/or vegetables and all packages containing or apparently intended to contain any such fruit or vegetables ;
- (b) Inspect any fruit, or vegetables, or fruit and vegetables which is or are being conveyed, or is or are at any place in the course of or for the purpose of being conveyed, through, in or on any place, road, or street, or by water in any vessel or boat, or by railway, or by vehicle, or by aeroplane, or by any other means of transit apparently for the purposes of trade, or sale, or delivery for or on sale ;
- (c) Examine and open any package containing or apparently containing fruit or vegetables in any such place, or being conveyed or during transit as aforesaid ;
- (d) Remove for examination and/or analysis any such fruit or vegetables or portions or samples of any such fruit or vegetables ;

Powers of inspectors.

- (e) Weigh, count, grade, or mark such fruit or vegetables or samples or portions thereof ;
- (f) Mark the words " falsely packed " in legible letters on any package of fruit or vegetables found by him to be not packed or graded as prescribed ;
- (g) Mark the words " falsely marked " in legible letters on any package of fruit or vegetables found by him to be falsely marked and obliterate or deface every such false mark ;
- (h) Seize any such fruit and/or vegetables, or package containing fruit and/or vegetables which is or are, or appear to him to be, not packed or graded as prescribed, falsely marked, diseased, or not sound, or in relation to which it appears to such inspector this Act is being otherwise contravened or not complied with.

(2.) When it appears to an inspector that this Act is being contravened or not complied with in relation to any fruit or vegetables at any time, such inspector may, in lieu of seizing such fruit or vegetables forthwith, direct the person then apparently having the possession or control of such fruit or vegetables to do forthwith, or within such time as such inspector specifies, all such acts and things as, in the opinion of such inspector, are necessary in order to ensure compliance with this Act as respects such fruit or vegetables.

Any person so directed shall comply with the direction.

If the inspector is of opinion that such direction is not being, or has not been, complied with he may seize the fruit and vegetables concerned.

(3.) Fruit and/or vegetables seized by an inspector under this Act shall be dealt with as the Minister or, subject to the Minister, the inspector seizing the same shall direct.

(4.) Where any package of fruit or vegetables is marked with the name of the packer thereof or with such packer's registered brand, any inspector who marks such package with the words " falsely packed " or " falsely marked " shall, within twenty-four hours thereafter, notify such packer or his agent that he has so marked such package.

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Such notice may be given by delivering the same in writing personally to such packer or agent or by forwarding the same by post in a prepaid letter or by a prepaid telegram addressed to such packer or agent at his usual or lastknown place of abode or address.

(5.) Where any fruit and/or vegetables is or are seized by an inspector, such inspector shall, within twenty-four hours after such seizure, notify the owner or the servant or the agent of the owner of such fruit and/or vegetables, if known to him, that such fruit and/or vegetables is or are being detained in storage or otherwise as may be the case.

(6.) Any fruit or vegetables seized under this Act shall at all times during the detention thereof be at the owner's risk.

Moreover all costs and charges incurred for handling, storing, or otherwise dealing with any fruit or vegetables consequent upon the seizure and detention thereof shall be payable by the owner and, if not paid upon demand, recoverable from him as a debt.

15. A person shall not—

Obstruction
of inspectors,
&c.

- (a) Assault, obstruct, threaten, or intimidate any inspector in the exercise of his powers or the discharge of his duties under this Act, or attempt so to do ; or
- (b) Refuse to allow to be removed, seized, or taken any fruit or vegetables, or any sample or portion of any fruit or vegetables in accordance with this Act ; or
- (c) Retake or attempt to retake any fruit, vegetables, portion, sample, or package removed, seized, or taken under this Act, or attempt to prevent any such removal, seizure, or taking ; or
- (d) Refuse to state his name and address when so requested by an inspector, or state in answer to such request a false name and address, or name, or address.

16. (1.) Where any offence against this Act is committed by any person at any time when such person is acting or is held out as acting as the servant of or agent for some other person, or when such person is acting or

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or employee.

is held out as acting under the control, supervision, or direction of some other person, that other person shall, notwithstanding any instruction or limitation of authority, be deemed to have committed that offence and shall be liable accordingly :

Provided that nothing in this subsection shall limit or affect the liability of the person who actually committed the offence.

(2.) If the person who actually committed the offence appears to be a minor, such person shall until the contrary is proved be deemed to have acted under the control of any adult person present and apparently employed at the place and at the time where and when the offence was committed.

Offences.

17. (1.) Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(2.) Any person guilty of an offence against any provision of this Act shall be liable for the first offence to a penalty not exceeding fifty pounds and for a second or any subsequent offence in respect of the same provision to a penalty of not less than ten pounds nor exceeding one hundred pounds.

(3.) Any offence against this Act may be prosecuted in a summary way under **The Justices Acts, 1886 to 1946,* upon the complaint of an inspector.

Regulations.

18. (1.) The Governor in Council may from time to time make regulations providing for all or any purposes whether general or to meet particular cases that may be convenient for the administration of this Act, or that may be necessary or expedient to carry out the objects and purposes of this Act, and, without limiting the generality of the foregoing provisions of this section, providing for all or any of the following purposes, that is to say :—

- (i.) Prescribing, regulating, and controlling grades for, and the grading of, fruit and vegetables for sale, which grades and grading may as respects any specified kind, variety, and/or

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class of fruit or vegetables be prescribed, regulated, and controlled according to any or all of the following—that is to say, appearance, class, cleanness, colour, flavour, freshness, kind, maturity, number, packing, quality, ripeness, size, soundness, texture, variety, or weight, and in particular as respects maturity prescribing, regulating, and controlling grades and the grading of specified kinds, and/or varieties of fruit or vegetables according to their use for consumption as fresh fruit or vegetables or, before maturity, as cooked, processed or otherwise treated fruit or vegetables ;

- (ii.) Prescribing, regulating, and controlling packages for, and the packing of, fruit and vegetables for sale, including standards as respects capacity, dimensions, measurements, and size of such packages for any specified kind, variety, and/or class of fruit or vegetables for sale and the description, kind, capacity, materials, dimensions, weight, and cleanness of such packages either generally or as respects any specified kind, variety, and/or class of fruits or vegetables for sale ;
- (iii.) Prescribing, controlling, and regulating the stacking or arranging in lots of fruit or vegetables for sale ;
- (iv.) Prescribing, regulating, and controlling the marking of (including the use of marks in or upon) packages containing fruit or vegetables for sale, the size or kind of marks to be used, the particulars to be shown thereby, the size of the printing, typing, or writing appearing therein or thereon, and the method of placing or affixing marks in or upon such packages ;
- (v.) Prescribing, regulating, and controlling the marking, and the use of marks for marking, lots of fruit or vegetables for sale, the size or kind of marks to be used, the particulars to be shown thereby, the size of the printing, typing, or writing appearing therein or thereon, and the method of placing or affixing marks in, about, or upon such lots ;

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- (vi.) Prescribing, regulating, and controlling the maximum quantity of foreign substances wrapping and/or packing material, and/or advertising matter which may be contained in packages of fruit or vegetables for sale ;
 - (vii.) Exempting, either unconditionally and without limitation or subject to such conditions as may be prescribed, any specified fruit and vegetables or kind, variety, and/or class of fruit or vegetables from all or any of the regulations ;
 - (viii.) Prescribing, regulating, and controlling methods of handling, loading, and/or unloading packages of fruit or vegetables for sale ;
 - (ix.) Prescribing, regulating, and controlling methods of handling, loading, and unloading packages of fruit or vegetables for sale in the course of, or for the purposes of, the carriage of such fruit or vegetables from the place where the same are packed to the place to which they are consigned for sale, or from any place at which they are sold by wholesale to the place to which they are consigned for sale by retail ;
 - (x.) Protecting against, and preventing injury to, fruit and vegetables for sale contained in packages ;
 - (xi.) The keeping and inspection of records and statistics of dried fruits received at and/or delivered from any place whatsoever in which or where dried fruits are prepared, steamed, processed, graded, sorted, or packed, whether such place is or is not used for any other purpose ;
 - (xii.) The powers and duties of inspectors, the entry by inspectors for the purpose of searching for and inspecting dried fruit which is or is believed or suspected to be in or upon any place, and the facilities necessary to enable inspectors to make such searches and inspections and keep records of the same, including the opening of packages, the taking of

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samples of any dried fruit or any product thereof, the inspection of books, accounts, and records, and the taking of copies thereof or of entries therein ;

- (xiii.) Forms under this Act and the respective purposes for which such forms are to be used ;
- (xiv.) All matters required or permitted by this Act to be prescribed.

The power to regulate and control by regulation shall include power to prohibit.

(2.) Regulations hereunder may be made on the passing of this Act.

(3.) Every regulation made under this Act shall be published in the *Gazette*, and thereupon shall be judicially noticed.

(4.) Every regulation shall be laid before the Legislative Assembly within fourteen days after such publication if Parliament is in Session ; or, if not, within fourteen days after the commencement of the next session.

If the Legislative Assembly 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 placed before it, such regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

For the purposes of this section the term " sitting days " shall mean days on which the Legislative Assembly actually sits for the despatch of business.
