

FRESH FRUITS OVERSEAS MARKETING.

No. 22 of 1927.

An Act relating to the Export of Fresh Fruits
and for other purposes.

[Assented to 8th April, 1927.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *Fresh Fruits Overseas Marketing Act 1927*.

Commencement of Act.

2.—(1.) Sections one, two, six and thirty of this Act shall commence on the day on which this Act receives the Royal Assent, and the remaining sections of this Act shall commence on a date to be fixed by Proclamation.

(2.) A Proclamation under this section shall not issue unless and until, at a poll of growers taken in the prescribed manner throughout the Commonwealth, a majority of votes have been given in favour of the Act being brought into operation.

Duration of Act.

3.—(1.) If, within one month after this Act has been in operation for a period of three years, or within one month after the expiration of any further period of three years, a requisition for a poll signed by at least three hundred growers is sent to the Minister, a poll shall thereupon be held in the prescribed manner in regard to the question whether the Act shall continue in operation.

(2.) If a majority of the growers voting at the poll are opposed to the continued operation of the Act, the Act shall cease to have effect upon a date to be fixed by Proclamation, not being later than one month after the result of the poll has been ascertained.

Definitions.

4. In this Act, unless the contrary intention appears—

“fresh fruits” means apples and pears;

“grower” means, for the purposes of the requisition of a poll and voting under this Act, the occupier of an orchard from which at least one hundred bushel cases of fruit (on an average of forty pounds to the bushel) were exported during either of the preceding two years;

“the board” means the Fresh Fruits Overseas Marketing Board constituted under this Act;

“the Fund” means the Fresh Fruits Export Fund established under this Act.

5.—(1.) For the purposes of this Act there shall be a Fresh Fruits Overseas Marketing Board.

Fresh Fruits
Overseas
Marketing
Board.

(2.) The Board shall consist of—

(a) one member with commercial experience (in this Act referred to as the Government representative) who shall be appointed by the Governor-General as the representative of the Commonwealth Government;

(b) two representatives elected by growers in the State of Tasmania;

(c) one representative elected by growers in the State of Victoria;

(d) one representative elected by growers in the States of New South Wales and Queensland;

(e) one representative elected by growers in the State of South Australia; and

(f) one representative elected by growers in the State of Western Australia.

(3.) The Governor-General shall not appoint as a Government representative any person who has submitted himself for, and failed to secure, election as a member of the Board.

(4.) The member appointed as the Government representative shall hold office during the pleasure of the Governor-General.

(5.) The election of representatives in pursuance of paragraphs (b), (c), (d), (e) and (f) of sub-section (2.) of this section shall be carried out in such manner as is prescribed.

(6.) Elected members of the Board shall hold office for a period of two years and shall be eligible for re-election.

(7.) An elected member may be removed from office by the Governor-General on the recommendation of the Board.

(8.) On the death, resignation, or removal from office of an elected member of the Board, the Governor-General may, on the recommendation of the Board, appoint a person to hold the vacant office for the residue of the term of the elected member.

(9.) The powers conferred on the Board by this Act shall not be affected by reason only of there being a vacancy in the membership thereof.

6. Notwithstanding that a Proclamation under section two of this Act has not been issued, elections of members of the Board in pursuance of the last preceding section may be held on the same day as that appointed for the taking of the poll referred to in section two of this Act.

Date of
election of
members of
the Board.

Incorporation
of Board.

7. The Board shall be a body corporate, with perpetual succession and a common seal, and shall be capable of suing and being sued, and of holding real and personal property.

Deputies of
members.

8.—(1.) The Governor-General may, in respect of each member of the Board, appoint a person to be the deputy of that member.

(2.) A person appointed in pursuance of the last preceding subsection shall, in the event of the illness or absence of the member of whom he is the deputy, have all the powers of that member during his illness or absence.

(3.) The person appointed to be the deputy of an elected member shall be a person named by the Board.

(4.) No such appointment of a deputy, and no acts done by him as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

Fees and
expenses.

9. The members of the Board, and the deputies of members of the Board while acting as such, shall receive such fees and expenses as are prescribed.

Chairman of
Board.

10.—(1.) At the first meeting of the Board, which shall be held at a time and place notified in the *Gazette* by the Minister, the Board shall appoint one of its members to be the Chairman of the Board.

(2.) The Chairman of the Board shall hold office until the appointment in accordance with this section of a successor and shall be eligible for re-appointment.

(3.) At a meeting of the Board, which shall be held in the month of July of each year, the Board shall appoint a person to be Chairman for the ensuing period of twelve months.

(4.) At any meeting of the Board at which the Chairman is not present the members present shall appoint one of their number to act as chairman at that meeting.

Meetings of the
Board.

11.—(1.) Subject to this Act, meetings of the Board shall be held at such times and places within the Commonwealth as the Board from time to time determines.

(2.) The Chairman of the Board, or any three members thereof, may at any time call a special meeting of the Board.

(3.) At all meetings of the Board three members shall form a quorum.

(4.) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(5.) All questions before the Board shall be decided by a majority of votes.

(6.) The Board shall keep a record of its proceedings.

London Agency
of Board.

12.—(1.) The Board may constitute an agency of the Board in London (in this Act referred to as "the London Agency").

(2.) The London Agency shall consist of such number of persons as the Board from time to time determines, one of whom shall be appointed by the Governor-General and shall hold office during the pleasure of the Governor-General, and the others shall be appointed by the Board and shall hold office during the pleasure of the Board.

(3.) The London Agency shall keep the Board advised as to current prices of fresh fruits, and as to other matters relative to the disposal of Australian fresh fruits in England or elsewhere, and generally act as the agent of the Board in accordance with the directions of the Board.

13.—(1.) The Board may appoint such officers as are necessary to assist the Board in carrying out its functions under this Act. Appointment of Officers.

(2.) Officers appointed in pursuance of this section shall not be subject to the *Commonwealth Public Service Act 1922-1924* and shall hold office during the pleasure of the Board.

(3.) The salaries and conditions of employment of officers appointed in pursuance of this section shall be as prescribed.

14.—(1.) For the purpose of enabling the Board effectively to control the export and the sale and distribution after export of Australian fresh fruits, the Governor-General may by Proclamation prohibit the export from the Commonwealth of any fresh fruits except in accordance with a licence issued by the Minister subject to such conditions and restrictions as are prescribed after recommendation to the Minister by the Board. Fresh fruits not to be exported save in accordance with determination of Board.

(2.) This section shall not apply to the export of fresh fruits to any port between the Ninetieth and One hundred and eightieth degrees of East Longitude and North of the Thirtieth parallel of South Latitude.

15.—(1.) Upon the issue of a Proclamation in pursuance of the last preceding section, the Minister may grant to any person desiring to export fresh fruits from the Commonwealth a licence to do so. Licensing of traders in fresh fruits.

(2.) A licence under this section shall, subject to this section, be for such period as is specified in the licence and shall be granted upon such terms and conditions as are prescribed.

(3.) Where the Minister is satisfied, on report by the Board, that any person to whom a licence under this section has been granted has contravened or failed to comply with any term or condition upon which the licence was granted, the Minister may cancel the licence.

16. Any person who—

(a) exports fresh fruits from the Commonwealth in contravention of any Proclamation under this Act; or

(b) being the holder of a licence under the last preceding section, contravenes or fails to comply with any term or condition upon which the licence was granted,

shall be guilty of an offence.

Penalty : One hundred pounds.

Penalty for export in contravention of Proclamation.

Board may accept control of fresh fruit intended for export.

Saving as to existing contracts.

17. The Board may accept control of any fresh fruits placed under its control for the purposes of this Act.

18.—(1.) This Act shall not apply with respect to the sale of any fresh fruits as to which the Board is satisfied that there is subsisting a contract for purchase and sale made before the fifteenth day of March, One thousand nine hundred and twenty-seven.

(2.) This Act shall not apply, with respect to the sale of any fresh fruits, so as prejudicially to affect the operation of any contract of agency in respect of the sale of fresh fruits out of the Commonwealth, if the contract has been entered into in writing on or before the fifteenth day of March, One thousand nine hundred and twenty-seven.

Contracts for shipment of fresh fruits.

19.—(1.) After the constitution of the Board, or after such later date as the Minister, on the recommendation of the Board, by notice in the *Gazette* appoints, a contract for the carriage by sea to any place beyond the Commonwealth of any fresh fruits shall not be made except by the Board acting as the agent of the owners of the fresh fruits or of other persons having authority to export the fresh fruits, or in conformity with conditions approved by the Board.

(2.) Every contract for the carriage of fresh fruits by sea to any place beyond the Commonwealth made otherwise than in accordance with this section shall be void.

(3.) The Collector or other officer of Customs may require any person who, after the date of the constitution of the Board or after such later date as the Minister, on the recommendation of the Board, appoints, exports any fresh fruits from the Commonwealth, on making entry thereof under the *Customs Act 1901-1925* and before the entry has been passed, to satisfy him that the contract for the carriage of the fruits has been approved by the Board, and the Collector or other officer of Customs may decline to pass the entry until the person has so satisfied him.

(4.) This section shall apply to contracts made before the constitution of the Board or before such later date (whether before or after the commencement of this Act) as the Minister, on the recommendation of the Board, appoints, in like manner as it applies to contracts made after such constitution or date, as the case may be:

Provided that the approval of the Board shall not be required for any such contract if the fresh fruits to which it relates are exported from Australia not later than the first day of January, One thousand nine hundred and twenty-eight.

Particular powers of Board;

20.—(1.) The Board shall, with respect to any fresh fruits placed under its control, have full authority to make such arrangements and give such directions as it thinks fit for the following matters:—

- (a) the handling, marketing and storage of the fresh fruits;
- (b) the shipment of the fresh fruits on such terms and in such quantities as it thinks fit;
- (c) the sale and disposal of fresh fruits on such terms as it thinks fit;

(d) the insurance against loss of any such fresh fruits either in the Commonwealth or in transit from the Commonwealth and until disposed of; and

(e) all such matters as are necessary for the due discharge of its functions in handling, distributing and disposing of the fresh fruits.

(2.) For the purpose of securing any advances made to the Board, or, at the request of the Board, to the owners of any fresh fruits placed under the control of the Board, the Board shall, by virtue of this Act and without further authority, have full power, on behalf of the owners of the fresh fruits, to give security over the fresh fruits and to execute all mortgages and other instruments of assurance in the same manner in all respects as if the Board were the legal owners of the fresh fruits.

21.—(1.) There shall be a Fresh Fruits Export Fund into which shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, all moneys received by the Collector of Customs under the *Fresh Fruits Export Charges Act 1927*.

Fresh Fruits
Export Fund.

(2.) Where any account referred to in section twenty-three of this Act is opened, payment into that account of the moneys mentioned in the last preceding sub-section shall be held to be payment into the fund.

(3.) Income derived from the investment of the fund shall form part thereof.

(4.) The income of the fund shall not be subject to taxation by the Commonwealth or a State.

22. The moneys paid into the fund shall be applied by the Board as follows :—

Application of
moneys paid
into fund.

(a) in payment of the expenses and other charges incurred by the Board or for which the Board may become liable in the course of its business;

(b) in payment of the salaries and wages of officers and servants of the Board;

(c) in payment of travelling allowances, fees or other remuneration to members of the Board or of the London Agency (not being persons permanently employed in the service of the Government); and

(d) in investment in any securities of, or guaranteed by, the Government of the Commonwealth or of a State.

23. Moneys held in the fund uninvested by the Board may be lodged in an account at call or on fixed deposit, or partly at call and partly on fixed deposit, with the Commonwealth Bank, or with any other prescribed bank, and while in such bank shall be held to be moneys of the Crown.

Moneys in fund
uninvested may
be lodged in
bank.

Moneys received
by Board.

24. All moneys received by the Board in respect of the sale of fresh fruits or otherwise howsoever (except moneys forming part of the fund) shall be paid by the Board into a separate account in the Commonwealth Bank or any other prescribed bank.

How cheques
signed.

25. Cheques drawn on any account referred to in either of the last two preceding sections shall be signed as prescribed.

Power to call for
information.

26.—(1.) The Board may call upon any person to furnish, within such time as is specified by the Board, such information in relation to the fresh fruits industry as is necessary for the purposes of this Act.

(2.) Any person who, being called upon in pursuance of this section to furnish information in relation to any matter within his knowledge or under his control, fails to furnish the information within the time specified shall be guilty of an offence.

Penalty : One hundred pounds.

Audit.

27. The accounts of the Board shall be subject to inspection and audit by the Auditor-General for the Commonwealth.

Liability of
Board for its
acts.

28.—(1.) The Board in its corporate capacity shall, in all its operations under this Act, be deemed to be the agent of the owners of all fresh fruits of which the Board has accepted control, and the mutual rights, obligations and liabilities of the Board and the several owners shall accordingly be determined in accordance with the law governing the relations between principals and agents, save that nothing in this Act shall be construed to limit the power of the Board to exercise, without the authority of the owner of any fresh fruits, any power with respect to such fresh fruits which is expressly or by implication conferred on the Board by or under this Act.

(2.) The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

Annual report.

29.—(1.) The Board shall, in the month of September in each year, report to the Minister generally as to the operation of this Act.

(2.) A copy of the report of the Board shall be laid on the Table of each House of the Parliament within seven days of its receipt by the Minister, if the Parliament is then sitting, and, if the Parliament is not then sitting, then within seven days of the next meeting of the Parliament.

(3.) The report shall be accompanied by a statement by the Minister regarding the operation of the Act.

Regulations.

30. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding Fifty pounds for any breach of the regulations.