TASMANIA.

THE FRUIT BOARD ACT 1934.

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TASMANIA.



1934.

ANNO VICESIM) QUINTO

GEORGII V. REGIS.

No. 49.

AN ACT to provide for the Establishment of a State Fruit Board for the Regulation and Encouragement of the Fruit Industry, and to provide for Contributions to a Fund for the purposes thereof. [13 December, 1934.]

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 :--

PART 1.

PRELIMINARY.

1 This Act may be cited as the *Fruit Board Act* 1934.

Short title.

2-(1) The Acts enumerated in the schedule are hereby repealed. Repeal.

(2) Upon the passing of this Act, all boards constituted or established under any Act hereby repealed shall be abolished subject to the provisions of section thirty-two.

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3 In this Act—

Interpretation.

"Fruit grower" means a person who is the occupier of an orchard of not less than two acres in area and who is engaged in the production of fruit from such orchard:

"Fruit" means apples and pears, or either of them :

"Orchard" means any orchard in which apples or pears are grown from trees not less than seven years old and which comprises an area of, or exceeding, two acres

PART II.

CONSTITUTION AND PROCEEDINGS OF THE BOARD.

Constitution of the Board.

4—(1) There shall be constituted for the purposes of this Act a Board, to be called "the State Fruit Board" (hereinafter called "the Board").

(2) The Board shall consist of nine persons, who shall be elected as hereinafter provided.

(3) The Board shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name.

(4) The elected members of the Board shall hold office for three years, but, at the expiration of each year from the first election, three of the members shall retire.

(5) The Board, within two months after the first election, shall decide which three of the members shall retire at the end of the first year and which three at the end of the second year respectively after that election, and thereafter the three members who have been the longest in office shall retire each year.

(6) A retiring member, if otherwise qualified, shall be eligible for re-election.

(7) In the event of a casual vacancy occurring on the Board, the same shall be filled as hereinafter provided for the unexpired period of the vacating member's term of office, and, for the purposes of subsection (5) hereof, the person elected to fill such vacancy shall be deemed to have held office since the last periodical election at which such office was filled.

(8) Any five members shall constitute a quorum of the Board for the transaction of business, and the Board may lawfully exercise all or any of its powers notwithstanding that the office of any member may be vacant, if not less than five members are present.

(9) The Board shall elect annually one of its members to be the Chairman of the Board.

Proceedings of the Board. 5-(1) The Chairman shall preside at all meetings of the Board at which he is present, and in his absence from any meeting the members present shall elect one of their number as Chairman for that meeting.

(2) The Chairman shall have a deliberative vote only, and in the A.D. 1934. event of the voting being equal the question shall be decided in the negative. . 1 . .

(3) The first meeting of the Board shall be held at such time and place as the Governor may direct, and all meetings thereafter shall be held as the Board may determine, or, failing any such determination or in any emergency, as the Chairman may appoint.

(4) In all other respects the Board may regulate its own procedure.

6 There shall be paid, out of the funds at the Board's disposal, to Expenses of Board. every member of the Board-

- I. Such fee, not exceeding an amount at the rate of one pound for each day the member attends a meeting of the Board :
- **II.** Such travelling allowance, not exceeding the usual charge for the same journey by public conveyance : and
- III. If the member resides at a distance of at least ten miles from the place of meeting, such living allowance in respect of each day or part thereof, not exceeding an amount at the rate of one pound for each such day as aforesaid-

as the Board in each of the said cases may determine.

- 7 The office of a member of the Board shall become vacant if he-- Disqualification. I. Dies:

 - **II.** Becomes incapable of performing his duties :
 - 111. Becomes bankrupt or insolvent, or takes or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, or compounds with his creditors for less than twenty shillings in the pound, or makes an assignment of his estate for the benefit of his creditors:
 - iv. Absents himself (except on leave granted by the Board) from all meetings of the Board held during two consecutive months, or during any three months in any period of twelve months:
 - v. Becomes in any way, except as a member, concerned or interested in any contract made by or on behalf of the Board, or in any way participates, or claims to be entitled to participate, in the profits thereof, or in any benefit or emolument arising therefrom, but this paragraph shall not apply in the case of a contract with an incorporated company of more than twenty members, of whom the member of the Board in question is one, unless he is a director of such company, or votes on some question relating to the contract :

vi. Accepts or holds any office of profit under the Board :

vII. Resigns his office by writing addressed to the Chairman.

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Filling of vacancies.

8—(1) Where any vacancy occurs on the Board, the same shall be filled as provided by sections 132a and 132b of the *Electoral Act* 1907, or if the returning officer certifies that that course is impracticable the Board shall cause an election to be held as prescribed to fill such vacancy, but, if the vacancy occurs within three months before a periodical election, the same shall be filled at the time the periodical election is held.

(2) For the purposes of this section the returning officer shall perform the duties of the Chief Electoral Officer in relation to the said recited provisions.

PART III.

DISTRICTS AND ELECTIONS.

Fruit districts.

Qualification of

members.

9 For the purposes of this Act, the fruit growers in the Southern Division of the State shall elect six members and the fruit growers in the Northern Division shall elect three members of the Board to represent such divisions thereon respectively.

10-(1) Except as otherwise provided, every fruit grower who is over the age of twenty-one years shall be eligible to be elected and to hold office as a member of the Board.

(2) No person shall be eligible to be elected or to hold office as a member of the Board if he is a director of any trading company which carries on the business of buying, selling, or shipping of fruit; but a director of a co-operative company, whose principal object is the packing of fruit for its shareholders, shall not be disqualified for membership by reason of the fact that such company also buys, sells, or ships fruit in the interests of its shareholders.

Nominations.

11—(1) Any two fruit growers residing in one district, by writing under their hands, may nominate any fruit grower for election as a member of the Board to represent such district.

(2) Every such nomination shall be endorsed or accompanied with the consent thereto in writing of the person nominated, and shall be lodged with the returning officer not later than the day and hour appointed for receiving nominations for the election for which such person is nominated.

12-(1) Upon the passing of this Act the Governor shall appoint a returning officer for the purposes of the first election of members of the Board.

(2) Notice of such appointment, setting forth the address of the office of the returning officer, shall be published in the Gazette and in such newspapers as the Minister may direct.

E'ection of members.

(3) At such date (not being more than three months after the A.D. 1934. passing of this Act), as the Minister may direct, the returning officer shall publish in the Gazette and in such newspapers as the Minister may direct a notice calling for nominations of persons in each division for election to the Board to represent such divisions respectively.

(4) Such notice shall state the place at which, and the date and time up to which, nominations will be received and the date on which an election will be held if required.

(5) If the nominations so received by the returning officer for either division do not exceed in number the number of members required to be elected for that division, he shall, by public notice to be published as the Minister may direct, declare the persons so nominated duly elected members of the Board for the division for which they were nominated.

(6) If the number of persons nominated as aforesaid for either division exceeds the number to be elected for that division, the returning officer shall proceed to hold an election for that division, at such time and in such manner as may be prescribed.

(7) All such elections for the purpose of the first or any periodical election of members shall be held at the same time and place.

(8) If in either division no person is nominated for election to represent such division, the Governor may appoint some person as a member to represent the same, and any member so appointed when the Board is first constituted shall be included as one of the three members who retire at the expiration of one year after the election.

(9) All elections of members after the first shall be conducted by the Board, and periodical elections shall be held every year.

13—(1) Within two months after the publication in the Gazette of Roll of the notice of appointment of the returning officer, every fruit grower fruit growers. shall register his name as a fruit grower at the office of the returning officer, as provided by this Act.

Penalty: Ten pounds.

(2) Registration of a fruit grower shall be effected by the occupier of an orchard delivering, or sending by registered post, to the registrar a written statement setting forth the area and situation of his orchard, the full name of the occupier, and his postal address.

(3) Until the appointment of a registrar by the Board, the returning officer shall be the registrar and all such statements as aforesaid shall be delivered at or sent addressed to his office.

(4) The returning officer shall enter in a register the names of all the occupiers of orchards in respect of which he has received such statements as aforesaid, and shall prepare a roll of fruit growers for each division, setting forth the names and addresses of all fruit growers in such division whose names as the occupiers of orchards are so registered up to the expiration of the period of two months mentioned in subsection (1) hereof, and such roll shall be the fruit growers' roll for the division for the purposes of the election.

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(5) Every person who—

1. Being a registered fruit grower—

- (a) Ceases to occupy the orchard in respect of which he is registered : or
- (b) Becomes the occupier of an orchard of any greater or less area respectively than that in respect of which he is registered :

11. Being the occupier of an orchard, is not registered : or 11. Becomes a fruit grower—

shall deliver or send by registered post to the registrar, a statement of such fact with the prescribed particulars and with the date on which such fact occurred.

Penalty: Ten pounds.

(6) The registrar shall revise the fruit growers' roll for each division by entering therein the name of every fruit grower from whom he has received the prescribed statement and by striking out the name of every fruit grower who has notified him, as prescribed, that he has ceased to be a fruit grower; and shall keep an exact record of the acreage of such of the orchards occupied respectively by the registered fruit growers

(7) The several division rolls, as so revised for the time being, shall be the fruit growers' rolls for the respective divisions for the purposes of any elections or polls under this Act.

14-(1) At every election of members or poll under this Act, every registered fruit grower shall have voting power on the following scale for the division in respect of which he is registered—

One vote up to and including 10 acres;

Two votes up to and including 25 acres;

Three votes up to and including 50 acres;

Four votes up to and including 100 acres; and

Five votes over 100 acres.

(2) For the purposes of every such election or poll, the returning officer shall send by post, as prescribed, to every fruit grower a postal ballot-paper for such election or poll in the prescribed form.

(3) Every fruit grower shall record his vote in manner prescribed and forward the same, as prescribed, to the returning officer.

(4) All such votes shall be counted in accordance with the appropriate provisions of the *Electoral Act* 1907.

(5) No registered fruit grower shall fail, without valid and sufficient cause, to record his vote at any election.

Penalty: Two pounds.

(6) Where any registered fruit grower has failed to vote as aforesaid, the returning officer shall send or deliver to such fruit grower a notice in the prescribed form and take the prescribed steps in relation thereto, and the regulations may empower the returning officer to impose a prescribed penalty on the prescribed conditions in lieu of taking legal proceedings in respect of such failure.

Voting at elections.

PART IV.

FINANCIAL PROVISIONS.

15 There shall be paid to the Board and the Board shall have at its Funds. disposal for the purposes of this Act-

- 1. All moneys provided by Parliament for that purpose :
- 11. All amounts received under this Act in respect of the acreage tax thereby imposed : and
- III. The amount of all pecuniary penalties recovered under this Act.

16—(1) As a contribution by fruit growers to the funds of the Contribution by Board there shall be payable and paid annually to the Board by every fruit growers to fruit grower such tax, not exceeding a tax at the rate of two shillings funds of the for every acre of orchard occupied by such fruit grower, as the Governor by proclamation may declare and direct in each year.

(2) For the purposes of this section any fraction of an acre above an even number of acres shall be counted as an additional acre.

17-(1) All taxes payable under this Act shall be paid to the Board Collection of tax. at such time and in such manner as may be prescribed.

(2) If any fruit grower fails to pay the amount payable by him by way of tax under this Act, or any part thereof, as and when the same becomes payable, the Board may recover the same summarily upon complaint by any officer of the Board authorised in that behalf by the Board either generally or in any particular cases, or by action in any court of competent jurisdiction.

18-(1) All moneys received by or on behalf of the Board shall be Moneys of the paid to the credit of the Board in some bank appointed by the Board.

(2) All payments by the Board shall be made by cheque signed by such officers or members, not less than two, as the Board may appoint for that purpose.

(3) The accounts of the Board shall be subject to the provisions of the Audit Act 1918 in the same manner as if the Board were a local 9 Geo. V. No. 3. authority.

(4) The Board, at any time with the approval of the Governor, may apply such portion, if any, of its funds as in the opinion of the Board is desirable as a contribution to the funds of the Agricultural Bureau of Tasmania or any organisation having similar objects, but no such contribution shall be approved or made unless the Governor is satisfied that similar contributions to such organisation are to be made by bodies representing primary industries other than the fruit industry.

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PART V.

POWERS OF THE BOARD.

Appointment of officers.

19—(1) The Board may appoint a secretary, a registrar, and such other officers and servants as the Board may think necessary for carrying out the provisions of this Act, and may pay to any person so appointed such salary, wages, or remuneration as the Board may determine.

(2) Before any collector or other officer appointed by the Board for the collection or receipt of the moneys of the Board enters upon his duties, the Board shall take such security, as the Board considers sufficient, for the faithful performance by him of such office.

20-(1) The Board may engage in any business in relation to the shipping or marketing of fruit, and may act as agent for fruit growers for the shipping, marketing, or selling of fruit.

(2) For all or any of the purposes aforesaid, the Board may enter into negotiations with any persons, for securing on behalf of the fruit growers of this State any terms or conditions relating to the shipping or marketing of fruit, which in the opinion of the Board will be beneficial to the fruit industry of this State, and for that purpose may appoint and employ such agents, in such manner, and in such places as the Board may think best.

(3) With the assent of at least a two-thirds majority, the Board may on behalf of assenting growers arrange and enter into contracts with any person for the shipping or marketing of fruit, the allocation of shipping space for fruit, the obtaining of supplies of case material and other goods used in the marketing of fruit, the transport of fruit, and any other matters relating to the fruit industry.

(4) If at any time the Board, by a majority comprising two-thirds of its members, decides that any question shall be decided by the fruit growers, the Board may take a poll of the fruit growers on such question in the prescribed manner.

PART VI.

SHIPMENT OF FRUIT TO OTHER STATES,

21--(1) For the purpose of facilitating the admission of fruit from this State into other States of the Commonwealth and of promoting the sale of such fruit therein, the Board shall frame regulations as and when the Board thinks it desirable so to do for the regulation of the fruit trade with all or any of such states, and shall submit such regulations to the Governor with a recommendation for the making thereof for the purposes of this Act.

Powers of the Board.

Interstate fruit trade,

(2) Any such regulations may prescribe—

I. The standards and methods of packing fruit :

- 11. The grading of fruit and the standards and methods to be employed therein, and whether fruit shall be graded according to variety, size, soundness, colour, or maturity, or all or any of such qualities :
- III. The standard of fruit which may be shipped as under grade:
- iv. The markings which shall be placed on the outside of cases or containers in which fruit is shipped; and prohibiting the use of marks other than those prescribed, but the use of the shipper's name or trade mark shall in no case be prohibited :
- v. The kinds and classes of cases or containers which shall be used for shipping fruit :
- vi. The methods to be followed in the handling, stacking, and loading of fruit for shipment, and the precautions to be taken by persons engaged therein; and generally for the protection of such fruit from damage:
- vII. The shape, dimensions, and methods of construction to be adopted and followed for cases or containers for fruit for shipment :
- viii. The circumstances in which slips or labels shall be placed in cases in which fruit is shipped; the kinds of slips or labels which may be used therefor; the particulars, statements, information, words, or marks which shall or shall not, as may be prescribed, be placed in any such case or class of cases; and prohibiting the use of slips or labels except as prescribed :
 - 1x. The fees which shall be payable in respect of the inspection of fruit under this Act:
 - x. The duties of inspectors : and
 - xI. Such other matters as the Board may think necessary for the purposes of this Act—

in relation to fruit shipped or intended to be shipped to any other such State as aforesaid.

22—(1) Every inspector under this Part, at any reasonable time, Powers of may---

inspectors.

- I. Enter and inspect any place in which he has reason to believe is any fruit intended for shipment to another state and examine any cases, containers, or fruit found therein; but, if there is any person in charge thereof, the inspector, before opening any case or container therein, shall request such person to open the same :
- u. Take samples of any such 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 such fruit :

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- IV. Enter any place where fruit for shipment is being handled, or is, or is being, stacked or loaded for the purpose of supervising such handling, stacking, or loading :
- v. Direct any person in charge of any such fruit to do all such acts and things and take such measures as the inspector thinks necessary for the proper observance of the provisions of this Act : and
- vi. Pass any fruit for shipment.
- (2) No person shall fail to comply with any direction lawfully given to him by an inspector under this section.

Penalty: Ten pounds.

Procedure.

23—(1) Any inspector may detain any fruit in relation to which there has been any failure to comply with any provision of this Act for such time as may be necessary to complete his inspection.

(2) Any fruit so detained shall be held at the risk and charges of the owner thereof.

(3) The inspector shall give notice to the owner of any such detention so soon as the inspector ascertains the name and address of such owner.

(4) Any such notice may be sent by post or by a prepaid telegram addressed to the owner.

Offences.

24-(1) No person shall pack for shipment to any other State for himself or any other person, or cause to be packed for such purpose, any fruit unless it is—

I. Graded as prescribed : and

II. Packed as prescribed—

and the case or container in which it is packed bears the prescribed marks and contains any slip or label prescribed in relation to such fruit, setting forth the prescribed particulars, statements, information, and words, if any, respectively.

Penalty: Five pounds.

(2) No person shall—

1. Ship any fruit to any other State of the Commonwealth unless the same has been passed by an inspector under this Part:

11. Ship any fruit as aforesaid after an inspector has refused to pass the same.

Penalty: Minimum, five pounds; maximum, one hundred pounds.

(3) No person shall wilfully alter, deface, or obliterate, or cause to be altered, defaced, or obliterated, any brand or mark made on any case or container of fruit under this Part unless he is an inspector under this Act.

Penalty: Fifty pounds or three months' imprisonment.

(4) No person shall impersonate or falsely represent, or hold himself out to be, an inspector under this Act, or do any act purporting to be done by any such inspector.

Penalty: Minimum; five pounds; maximum, one hundred pounds or six months' imprisonment.

PART VII.

GENERAL.

25 In this Part the expression "fruit generally" shall include Interpretation. fruit as defined in Part I. and all other kinds of fruit produced in this state.

26-(1) The Governor may appoint such and so many inspectors Appointment of and other officers as he may think necessary for the purposes of this inspectors and Act.

(2) Every inspector appointed under the *Plant Diseases Act* 1930 shall have all the powers and authorities of an inspector under this Act.

27—(1) Every person, not being a fruit grower as defined by this Inspection fees Act, who grows apples or pears or such other fruits, if any, as may be to be paid by prescribed, shall pay to the Director of Agriculture such inspection growers in certain fees not exceeding two shillings for every acre or part of an acre occupied by such person, as may be prescribed.

(2) The amount of all such fees received by the Director shall be paid to the consolidated revenue.

28-(1) It shall be the duty of the Board to advise the Minister Diseases and on all matters relating to the production and marketing of fruit as pests. defined by this Act and all other classes of fruit.

(2) The Board may recommend to the Governor the making of regulations for the control or eradication of any pest or disease affecting fruit generally or any kind or description thereof, and may advise the Minister as to the measures to be adopted for combatting or eradicating any such pest or disease or for preventing the introduction or spreading thereof.

(3) Any such advice or recommendation of the Board as aforesaid may be carried out under any Act relating to the matters in respect of which such advice or recommendation is given or made.

29-(1) The Board at any time may require all growers of fruit Returns by generally or the growers of any particular kinds or classes thereof to growers of fruit. furnish to the Board returns showing the quantities of fruit produced, the areas from which the same was produced, and such other particulars as may be prescribed.

(2) Notice of any such requirement shall be published in the Gazette and in such newspapers as the Board thinks fit.

(3) All fruitgrowers shall furnish to the Board annually, as and when prescribed, returns showing the areas of the orchards occupied by them and such other particulars as may be prescribed.

(4) Every such return shall be in the prescribed form, and the particulars therein shall be verified by the declaration of the person making the same.

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Legal proceedings.

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30—(1) Proceedings in respect of offences against any of the provisions of this Act may be taken by any officer authorised in that behalf by the Minister either generally or in any particular case or class of cases.

- (2) In any such proceedings—
 - I. It shall not be necessary to prove the authority of any such officer as aforesaid or the appointment of any inspector or other officer under this Act:
 - II. The person whose name or brand appears on any case or container in which any fruit is shipped or packed for shipment, or on any slip or label within such case or container, shall be deemed, until the contrary is proved, to be the owner of such fruit and of such case or container.

Regulations. **31** The Governor may make regulations under and for the purposes 고 망리 모네 이야기 of this Act. nas policiente da cares

> **32**—(1) Every fruit board, other than the council of a municipality, established under any Act hereby repealed shall remain in office for the purposes of this section for so long only as may be necessary to enable such board to prepare a final statement of its accounts up to and including the thirty-first day of December, one thousand nine hundred and thirty-four, and to pay any net credit balance disclosed by such accounts as provided by this section.

(2) Every such board shall-

1. Prior to the date aforesaid, collect and get in any moneys due and payable to it: and

II. Discharge all liabilities of such board, and shall, immediately after the date aforesaid, cause to be prepared and audited the accounts required by subsection (1) hereof.

(3) The amount of any credit balance disclosed by such accounts as aforesaid, after payment of or allowance for all liabilities of the board, shall be paid to the Treasurer and credited to the consolidated revenue.

(4) If after the date aforesaid any moneys remain due and payable to any such board by way of tax under such repealed Act, the same starts by starting may be recovered by the Director of Agriculture in the name of such board.

> (5) If any such board fails or neglects to comply with any of the provisions of this section, the secretary and every member of such board shall be severally liable to a penalty of ten pounds.

> **33**³ At the expiration of three years from the commencement of this Act, the Board shall hold a poll of fruit growers in the prescribed manner, and, unless a majority of fruit growers voting at the poll are in favour of the continued operation of this Act, this Act shall cease to have effect on the thirty-first day of March, one thousand nine hundred and thirty-eight.

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Expiry of Act unless continued by poll.

Transitory provisions.

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SCHEDULE.

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Regnal Year and Number.	Title of Act.	
64 Vict. No. 19 3 Geo. V. No. 28 9 Geo. V. No. 21 12 Geo. V. No. 67 19 Geo. V. No. 59 22 Geo. V. No. 26	The Codlin Moth Act 1888 The Codlin Moth Amendment Act 1891 The Codlin Moth Amendment Act 1900 The Codlin Moth Act 1912 The Apples and Pears Act 1918 The Apples and Pears Act 1921 The Codlin Moth Act 1928 The Apples and Pears Act 1931 The Codlin Moth Act 1931	

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