

**SALE OF FRUIT ACT, 1915-1975****SUMMARY OF PROVISIONS**

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**THE SCHEDULE**

## SALE OF FRUIT ACT, 1915-1975

being

Sale of Fruit Act, 1915, No. 1233 of 1915 [Assented to 23rd December, 1915];

as amended by

Sale of Fruit Act Amendment Act, 1921, No. 1459 of 1921 [Assented to 28th September, 1921];

Sale of Fruit Act Amendment Act, 1935, No. 2215 of 1935 [Assented to 7th November, 1935];

Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19th December, 1935];

and

Statute Law Revision Act (No. 2), 1975, No. 118 of 1975 [Assented to 4th December, 1975].

### **An Act to regulate the sale of fruit, and for other purposes, including certain amendments of the Chaff, Hay, and Fruit Act, 1908.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Sale of Fruit Act, 1915-1975".

Short title.  
Citation  
amended by 118,  
1975, s. 3(1)  
(2nd Sched.).

2. This Act shall come into force on the first day of October, 1916<sup>1</sup>, which date is in this Act referred to as the commencement of this Act.

Commencement  
of Act.

2a. This Act shall be construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision hereof would but for this section be 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.

Construction.  
S. 2a enacted by  
2215, 1935, s. 2.

3. In this Act, unless inconsistent with the context, or some other meaning is clearly intended—

Interpretation.  
Vic. 2059, 1906,  
s. 2.

"case" means any box, case, or other receptacle used, intended to be used, or capable of being used, for containing fruit:

"inspector" means an inspector appointed under the Vine, Fruit, and Vegetable Protection Act, 1885-1936, as amended, or under any corresponding subsequent enactment<sup>2</sup>, and includes the chief inspector so appointed:

Def. amended  
by 118, 1975,  
s. 3(1) (2nd  
Sched.).

"justice" means a justice of the peace for the said State:

"prescribed" means prescribed by this Act or by regulation:

"regulation" means regulation made under this Act:

<sup>1</sup> Reference to the year nineteen hundred and sixteen altered to 1916 pursuant to s. 7(1) of the Acts Republication Act, 1967, as amended.

<sup>2</sup> The Vine, Fruit, and Vegetable Protection Act, 1885-1959, has been repealed and superseded by the Fruit and Plant Protection Act, 1968.

“standard case” means a case conforming in measurements and capacity to one of the standards for fruit cases set out in the schedule or prescribed by regulation, such standard being in force at the time of the particular transaction or matter:

“this Act” includes regulations:

Amended by  
2215, 1935, s. 3.

The verb to sell includes—

- I. to sell, barter, or exchange;
- II. to agree to sell, barter, or exchange;
- III. to offer, expose, send, consign, or deliver for or on sale;
- IV. to receive for sale;
- V. to cause or suffer to be sold, bartered, or exchanged, or to be agreed to be sold, bartered, or exchanged;
- VI. to cause or suffer to be offered, exposed, sent, consigned, or delivered for or on sale;
- VII. to cause or suffer to be received for sale; and
- VIII. to attempt to do any of such acts or things;

and the word “sale” shall be construed accordingly:

The verb to buy, includes to buy, to receive or accept under an agreement to sell, and to offer to receive or accept or cause or suffer to be received or accepted under an agreement to sell.

S. 4 repealed by  
2246, 1935, s. 4  
(2nd Sched.).

\* \* \* \* \*

Fruit to be sold  
only in standard  
cases.  
964, 1908, s. 11  
altered.  
Subsec (1)  
amended by  
1459, 1921,  
s. 3(1); 2215,  
1935, s. 4.

5. (1) No person shall bring or cause to be brought into the State for sale, or sell or buy any fruit which is not at the time contained in one or more standard cases: Provided that this section shall not apply to—

(a) dried, preserved, tinned, or canned fruit:

Para. (b)  
amended by  
1459, 1921,  
s. 3 (1);  
substituted by  
2215, 1935, s. 4.

(b) fruit sold by weight, measure of capacity, or number, the quantity sold at one time of any one kind of fruit being less than twenty pounds in weight:

Para. (b1)  
inserted by  
2215, 1935, s. 4.

(b1) fruit sold by weight, measure of capacity, or number, the quantity sold at any one time of any one kind of fruit being more than five hundred pounds in weight, which is sold direct to any person for the purpose of being used for the manufacture of jam or preserves of any kind in any factory of that person:

Para. (b2)  
inserted by  
2215, 1935, s. 4.

(b2) fruit sold in bulk, the quantity sold at any one time of any one kind of fruit being more than five hundred pounds in weight, which is sold direct to any person for the purpose of being used for the manufacture of jam or preserves of any kind in any factory of that person:

(c) fruit sold in baskets, buckets, casks, tubs, or punnets:

(d) fruit sold in trays none of which contains more than one layer:

(e) any particular fruit which the Governor by regulation exempts from the provisions of this Act:

(f) any kind of fruit sold in such cases, or sold in such circumstances, as the Governor by regulation exempts from the provisions of this Act as regards that particular kind of fruit:

(g) fruit sold as a growing crop.

Para. (g) substituted by 1459, 1921, s. 3 (1).

\* \* \* \* \*

Para. (h) struck out by 1459, 1921, s. 3(1).

(2) The Governor may make regulations prescribing what shall be deemed to be dried, preserved, tinned, or canned fruit for the purposes of this section or any of such purposes.

(3) In any proceedings for any contravention of this section in respect of the selling or buying of any fruit, it shall be a sufficient defence if it is proved—

Subsec. (3) inserted by 1459, 1921, s. 3.

(a) that there was branded on the case in which such fruit was contained at the time of such contravention a name other than that of the person charged, together with an address and a guarantee of capacity, in such a manner that such case might reasonably be taken to comply with the rules set out in subsection (1) of section 8; and

(b) that such case might reasonably be taken to conform in measurements and capacity to one of the prescribed standards for fruit cases of the capacity stated in such guarantee.

6. (1) Until otherwise prescribed, the standards for fruit cases shall, for the purposes of this Act, be the cases named and described in the schedule.

Standards prescribed for fruit cases. 964, 1908, s. 10 altered.

(2) The Governor may by regulation<sup>1</sup>—

(a) prescribe standards for fruit cases in addition to those named in the schedule and fix the respective measurements and capacities thereof, and such additional cases shall, subject to subsection (3) of section 14, be standards for fruit cases for the purposes of this Act:

(b) substitute new standards for fruit cases for all or any of the standards named in the schedule or prescribed by regulation, and fix the respective measurements and capacities thereof, and thereupon such substituted standards shall, subject to subsection (3) of section 14, be standards for fruit cases for the purposes of this Act, and the standards for which they are substituted shall cease to be in force.

7. Notwithstanding anything in this Act, if a fruit case is of the shape necessary in order to comply with the measurements prescribed for any of the standard cases, such case shall be deemed, for the purposes of this Act, to be of the prescribed measurements if—

Margin of variation from standard to be allowed. S. 7 substituted by 1459, 1921, s. 4.

(a) any excess in the cubic capacity of such case does not exceed in the whole three and one-half per centum of the cubic capacity prescribed for the said standard case, or any deficiency in the cubic capacity of such case does not exceed in the whole two and one-half per centum of the said prescribed cubic capacity; and

<sup>1</sup> For regulations relating to standards for fruit cases see *Gaz.* 3rd December, 1936, p.1195 and 25th December, 1947, p.2265.

- (b) no measurement of such case exceeds the corresponding measurement prescribed for the said standard case by more than half an inch.

Every case to be branded which is used, or is sold to be used, for fruit. S. 8 substituted by 1459, 1921, s. 5.

8. (1) No person shall sell any fruit in any case, or any case for the purpose of being used for containing fruit, unless such case complies with the following rules:—

I. There must be legibly and durably branded in a conspicuous position, at one or both ends on the outside of the case—

(a) the name and address of the maker of the case; and

(b) a guarantee of capacity as follows:—“Guaranteed capacity”, the blank being filled in with the quantity in bushels or other measurement according to the capacity of the standard to which the case should conform:

II. Such name and address and guarantee of capacity must be branded within a space measuring not more than eight inches nor less than four inches in length, and not more than four inches nor less than two inches in width.

(2) In any proceedings for any contravention of this section in respect of the sale of any fruit in a case, it shall be a sufficient defence if it is proved—

(a) that at the time of the contravention there was branded on such case a name other than that of the person charged, together with an address and a guarantee of capacity, in such a manner that such case might reasonably be taken to comply with the rules set out in subsection (1) hereof; and

(b) that such case might reasonably be taken to conform in measurements and capacity to one of the prescribed standards for fruit cases of the capacity stated in such guarantee.

(3) In any proceedings for any contravention of this section in respect of the sale of any case for the purpose of being used for containing fruit, proof that the name of the person charged and an address and the words “Guaranteed capacity” were branded at one or both ends on the outside of such case shall be *prima facie* evidence that such case was sold by the person charged and was so sold for the purpose of being used for containing fruit.

Offence to falsely brand case, or to alter case or brand. S. 9 substituted by 1459, 1921, s. 6.

9. (1) If any case on which is branded any such guarantee of capacity as is mentioned in subsection (1) of section 8 does not conform in measurements and capacity to one of the prescribed standards for fruit cases of the capacity stated in such guarantee, any person whose name, together with an address and a guarantee, is branded on such case in such a manner that such case might reasonably be taken to comply with the rules set out in subsection (1) of section 8 shall be guilty of an offence against this Act.

In any proceedings against any person in respect of any such offence, it shall be a sufficient defence if it is proved by the person charged—

(a) that such person’s name or such guarantee was not branded on such case by such person, or with his consent or authority: or

(b) that, since the branding on such case of such person’s name and such address and guarantee, the size, shape, or any of the measurements of such case have been altered, or that such case has been in any way tampered with, by some other person, without such person’s consent or authority.

(2) No person shall alter the size, shape, or any of the measurements of, or in any way tamper with, any case on which is branded another person's name and address and a guarantee of capacity as mentioned in section 8, or wilfully alter or in any way tamper with any such name or address or guarantee of capacity.

\* \* \* \* \* Ss. 10, 11, and 12 repealed by 1459, 1921, s. 7.

13. (1) Any inspector may, at any time during the day time, enter upon any land or into any warehouse, store, shop, building, or other premises where fruit is or may reasonably be supposed to be sold or to be packed or kept for sale, and may—

Powers of Inspector.  
Cf. 964, 1908, s. 14.

- (a) measure any case, whether containing fruit or not, there found, and if necessary may remove the same to be measured elsewhere;
- (b) do any act or thing required or permitted by regulation to be done for the purposes of this Act.

(2) No person shall in any way obstruct or interfere with any inspector in the discharge of any of his duties or the exercise of any of his powers under this Act.

14. (1) The Governor may make regulations prescribing all such matters and things as this Act requires or permits to be prescribed, or contemplates shall be prescribed, or which it may be necessary or convenient to prescribe for giving effect to the provisions or objects of this Act.

Regulations.

(2) Every such regulation—

- (a) shall be published in the *Government Gazette*;
- (b) shall, subject to subsection (3) hereof, take effect from the date of such publication, or from a later date to be fixed by the order whereby the same is made; and
- (c) shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

(3) If either House of Parliament 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 laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

This subsection shall apply notwithstanding that the said fourteen days, or some of them, do not occur in the same session or Parliament as that in which the regulation is laid before such House.

(4) When a resolution has been passed, as mentioned in subsection (3) hereof, notice of such resolution shall be published in the *Government Gazette*.

15. (1) Any contravention of or failure to observe any provision of this Act, whether by act or omission, shall be an offence against this Act.

General penalty.

(2) Any person guilty of an offence against this Act shall be liable to a penalty for a first offence of not more than forty dollars<sup>1</sup>, and for any subsequent offence of not less than four dollars<sup>1</sup> nor more than one hundred dollars<sup>1</sup>.

<sup>1</sup> Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

Summary  
procedure for  
offences.  
S. 16 substituted  
by 2246, 1935,  
s. 4 (2nd  
Sched.).

16. All proceedings in respect of offences against this Act shall be disposed of summarily.

Ss. 17 and 18  
repealed by  
2246, 1935, s. 4  
(2nd Sched.).

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## THE SCHEDULE

Sec. 6.

### STANDARDS FOR FRUIT CASES<sup>1</sup>

| Name of Case       | Description of Case—   |  |
|--------------------|--|--|
|                    | Inside Measurements, clear of all Divisions  | Capacity   |
| Bushel case .....  | Eighteen inches by fourteen and one-quarter inches by eight and two-thirds inches  | Not less than one imperial bushel or cubical content of two thousand two hundred and twenty-three cubic inches             |
| Bushel case .....  | Twenty-six inches by six inches by fourteen and one-quarter inches                 | Not less than one imperial bushel or cubical content of two thousand two hundred and twenty-three cubic inches             |
| Bushel case .....  | Twenty inches by ten inches by eleven and one-eighth inches                        | Not less than one imperial bushel or cubical content of two thousand two hundred and twenty-five cubic inches              |
| Half case .....    | Eighteen inches by eight and two-thirds inches by seven and one-eighth inches      | Not less than one-half imperial bushel or cubical content of one thousand one hundred and eleven and one-half cubic inches |
| Half case .....    | Twenty-six inches by six inches by seven and one-eighth inches                     | Not less than one-half imperial bushel or cubical content of one thousand one hundred and eleven and one-half cubic inches |
| Half case .....    | Eighteen inches by eleven and three-quarters inches by five and one-quarter inches | Not less than one-half imperial bushel or cubical content of one thousand one hundred and ten inches                       |
| Quarter case ..... | Thirteen and three-quarters inches by ten and one-eighth inches by four inches     | Not less than one-quarter imperial bushel or cubical content of five hundred and fifty-six and seven-eighths cubic inches. |

<sup>1</sup> For regulations relating to standards for fruit cases see *Gaz.* 3rd December, 1936, p. 1195 and 25th December, 1947, p. 2265.