

CANNED FRUITS EXPORT CONTROL.

No. 40 of 1926.

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

[Assented to 16th August, 1926.]

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 *Canned Fruits Export Control Act*
1926.

Commencement.

2.—(1.) Sections one, two, five and twenty-nine 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 owners of canneries taken in the prescribed manner
throughout the Commonwealth, a majority of votes have been given
in favour of the Act being brought into operation.

Definitions.

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

“canned fruits” means canned apricots, canned clingstone
peaches, canned pears, and such other canned fruits as are
prescribed;

“cannery” means, in relation to any election under this Act, a
factory, of which the production of canned fruits, during the
canning season of 1925–1926, was not less than one
hundred and twenty thousand tins, each containing thirty
ounces;

“the Board” means the Canned Fruits Control Board constituted
under this Act;

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

Canned Fruits
Control
Board.

4.—(1.) For the purposes of this Act there shall be a Canned
Fruits Control Board.

(2.) The Board shall consist of—

(a) one member (in this Act referred to as “the Government
representative”) who shall be appointed by the Governor-
General as the representative of the Commonwealth Go-
vernment;

(b) one member elected to represent privately owned and proprietary canneries; and

(c) one member elected to represent co-operative and State-controlled canneries.

(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 a Government representative shall hold office during the pleasure of the Governor-General

(5.) The election of representatives in pursuance of paragraphs (b) and (c) 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.

5. Notwithstanding that a Proclamation under section two of this Act has not issued, elections of members of the Board in pursuance of sub-section (2.) 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.

6. 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.

Incorporation of Board.

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

Deputies of members.

(2.) A person appointed in pursuance of the last preceding sub-section 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.

8. 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.

Fees and expenses.

9.—(1.) The member appointed as the Government representative shall be the Chairman of the Board.

Chairman of Board.

(2.) 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.

10.—(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 two members thereof, may at any time call a special meeting of the Board.

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

(4.) At any meeting of the Board the Chairman shall have a deliberative vote, but not a casting vote.

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

(6.) Where, at a meeting of the Board at which one of the members is absent, there is an equality of votes on any question, the determination of that question shall be postponed to a meeting at which all the members are present.

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

London Agency
of Board.

11.—(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 canned fruits and as to other matters relative to the disposal of Australian canned fruits in England or elsewhere, and generally act as the agent of the Board in accordance with the directions of the Board.

Appointment
of officers.

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

(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.

Canned fruits
not to be
exported save
in accordance
with
determination
of Board.

13. For the purpose of enabling the Board effectively to control the export, and the sale and distribution after export, of Australian canned fruits, the Governor-General may by Proclamation prohibit the export from the Commonwealth of any canned 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.

Licensing of
traders in
canned fruits.

14.—(1.) Where the Governor-General issues a Proclamation in pursuance of the last preceding section, the Minister may grant to any person desiring to export canned fruits from the Commonwealth a licence to do so.

(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.

15. Any person who—

(a) exports canned 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.

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

Board may accept control of canned fruits intended for export.

17.—(1.) Where the Board is satisfied that there is subsisting a contract for the purchase and sale of canned fruits made before the first day of July One thousand nine hundred and twenty-six, this Act shall not apply in respect of the sale of those canned fruits.

Saving as to existing contracts.

(2.) Nothing in this Act shall apply, with respect to the sale of any canned fruits, so as prejudicially to affect the operation of any contract of agency in respect of the sale of canned fruits out of the Commonwealth, if the contract has been entered into in writing on or before the first day of July One thousand nine hundred and twenty-six.

18.—(1.) After the date of the constitution of the Board, or after such date as the Minister, on the recommendation of the Board, by notice in the *Gazette*, appoints, whichever is the later date, no contract for the carriage by sea to any place beyond the Commonwealth of any canned fruits shall be made except by the Board acting as the agent of the owners of the canned fruits or of other persons having authority to export the canned fruits, or in conformity with conditions approved by the Board.

Contracts for shipment of canned fruits.

(2.) Every contract for the carriage of canned 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 date as the Board appoints, whichever is the later date, exports any canned fruits from the Commonwealth, on making entry therefor under the *Customs Act* 1901-1925 and before the entry has been passed, to satisfy him that the contract for the shipment of the canned 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, with the necessary modifications, to contracts made before the constitution of the Board or before such later date as the Board appoints (whether before or after the commencement of this Act) :

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

Particular
powers of
Board.

19.—(1.) The Board shall, with respect to any canned 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 canned fruits ;
- (b) The shipment of the canned fruits on such terms and in such quantities as it thinks fit ;
- (c) The sale and disposal of canned fruits on such terms as it thinks fit ;
- (d) The insurance against loss of any such canned 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 canned 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 canned 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 canned fruits, to give security over the canned 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 canned fruits.

Canned Fruits
Export Fund.

20.—(1.) There shall be a Canned 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 *Canned Fruits Export Charges Act 1926*.

(2.) Where any account referred to in section twenty-two 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.

Application of
moneys paid
into fund.

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

- (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.

22. 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.

23. Cheques drawn on any account referred to in the last preceding section shall be signed as prescribed.

How cheques signed.

24. All moneys received by the Board in respect of the sale of canned 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.

Moneys received by Board.

25.—(1.) The Board may call upon any person to furnish, within such time as is specified by the Board, such returns in relation to the canned fruits industry as are necessary for the purposes of carrying out this Act.

Power to call for returns.

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

Penalty : One hundred pounds.

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

Audit.

27.—(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 canned 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 canned fruits, any power with respect to such canned fruits which is expressly or by implication conferred on the Board by or under this Act.

Liability of Board for its acts.

(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.

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

Annual report.

(2.) A copy of the report of the Board shall be laid before 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

29. 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.
