

CANNED FRUIT EXCISE.

No. 92 of 1963.

An Act relating to Excise on Canned Fruit.

[Assented to 31st October, 1963.]

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

1. This Act may be cited as the *Canned Fruit Excise Act 1963*. Short title.

2. This Act shall be deemed to have come into operation on the thirtieth day of October, One thousand nine hundred and sixty-three. Commencement.

3. In this Act, unless the contrary intention appears— Definitions.
 - “ approved place ” means a place approved by a Collector;
 - “ canned fruit ” means any goods upon which, under the name of canned fruit, any Excise duty imposed by the Parliament is payable;
 - “ cannery ” means the premises in respect of which a producer is licensed to produce canned fruit, and includes all adjacent premises used in connexion therewith or with the business of the producer;
 - “ Collector ” means a Collector of Customs for a State and includes the Comptroller and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used;
 - “ licence ” means a licence under this Act to produce canned fruit;
 - “ officer ” means a person who is an officer for the purposes of the *Customs Act 1901-1963*;
 - “ producer ” means a person licensed under this Act to produce canned fruit;
 - “ the Comptroller ” means the Comptroller-General of Customs;
 - “ this Act ” includes the regulations.

Application
of Act.

4. This Act applies to any Excise duty on canned fruit imposed by the Parliament.

Incorporation
of provisions
of the
Excise Act.

5.—(1.) The following provisions of the *Excise Act* 1901–1963, except so far as they are inconsistent with this Act, are incorporated and shall be read as one with this Act:—

- (a) Part II., except sections fourteen and twenty-three;
- (b) Part VI., except sections fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight and fifty-nine;
- (c) Part IX., except sections eighty-six, eighty-seven, one hundred, one hundred and two, one hundred and three, one hundred and four and one hundred and five;
- (d) Part X., except paragraphs (ii) and (iii) of section one hundred and twenty;
- (e) Parts XI., XII. and XIII.; and
- (f) Part XIV., except section one hundred and sixty-four.

(2.) For the purposes of this section—

- (a) a reference in the *Excise Act* 1901–1963 to a factory shall be read as a reference to a cannery;
- (b) a reference in that Act to a manufacturer shall be read as a reference to a producer; and
- (c) a reference in that Act to excisable goods shall be read as a reference to canned fruit.

Producers
to be licensed.

6.—(1.) A person shall not produce canned fruit unless he is the holder of a licence.

Penalty: One hundred pounds.

(2.) The last preceding sub-section does not apply to the production of canned fruit before the date on which this Act receives the Royal Assent.

Grant of
licences.

7.—(1.) An application for a licence shall be made to a Collector in accordance with the prescribed form.

(2.) An applicant for a licence shall pay to the Collector the prescribed fee and shall give security to the Collector for compliance with this Act in such amount as the Collector determines.

(3.) A security shall be given in a manner and form approved by the Collector and may, subject to that approval, be by bond, guarantee, cash deposit or any other method, or by two or more different methods.

(4.) The Collector may, if he is satisfied with the security given, grant to the applicant a licence in accordance with the prescribed form.

8. A licence shall, unless previously cancelled, remain in force until the thirty-first day of December next after the granting or renewal of the licence. Period of licence.
- 9.—(1.) A licence may be renewed by a Collector upon an application for renewal made before the expiry of the licence and on payment of the prescribed fee. Renewal of licences.
- (2.) The Collector may, in exceptional circumstances, extend for a period not exceeding seven days the time within which application for renewal of a licence and payment of the prescribed fee may be made.
- (3.) The liability of the subscribers to the security given in respect of a licence shall, in the absence of any notice of termination on the part of the subscribers, remain in force for any period for which the licence is renewed.
- 10.—(1.) A Collector may require an applicant for the renewal of a licence to give fresh security and, if fresh security is not given accordingly, he may refuse to renew the licence. Fresh security may be required.
- (2.) A Collector may at any time require a producer to give fresh security and fresh security shall be given accordingly and, in default, the licence may be cancelled by the Minister by notice published in the *Gazette*.
11. A licence may be transferred with the written permission of a Collector on security being given by the transferee. Transfer of licences.
12. A licence may be cancelled by the Minister by notice published in the *Gazette* if the licensee is convicted of any offence against this Act. Cancellation of licences.
13. A producer shall not produce canned fruit at any place other than the cannery in respect of which he is licensed. Canned fruit to be produced at licensed canneries.
Penalty: One hundred pounds.
14. Partly produced canned fruit may, with the written permission of a Collector, be transferred from one cannery to another for the purpose of completing the production. Transfer between canneries.
15. The production of canned fruit by producers is, for the protection of the revenue, subject to the right of supervision by officers. Excise supervisors.
16. Officers shall have complete access to every part of a cannery at all times and may examine and take copies of or extracts from all books and accounts required to be kept by the producer for the information of officers and of all books kept by the producer in relation to the production and delivery of canned fruit. Access to canneries.

Safe
custody of
canned fruit.

17. Every producer is responsible for the safe custody of all canned fruit in his cannery or other place under his control and for the observance of this Act within his cannery.

Office
accommoda-
tion and
facilities for
officers.

18.—(1.) A producer shall, if required by a Collector, provide in connexion with the cannery in respect of which he is licensed reasonable office accommodation for the supervising officer.

(2.) A producer shall provide all reasonable facilities for enabling officers to exercise their powers under this Act.

Penalty: Twenty pounds.

Producers
to keep books.

19. For the information of officers, a producer shall keep books to the satisfaction of the Collector of Customs for the State in which his cannery is situated, and prepare and render returns as prescribed and shall verify those returns as prescribed.

Penalty: Fifty pounds.

Payment
of duty.

20. The producer of canned fruit or, where the owner of canned fruit enters canned fruit for home consumption, the owner of the canned fruit, shall pay to a Collector, in accordance with this Act, the Excise duty on that canned fruit.

Entry to
precede
removal.

21. A person shall not, except as authorized by this Act, remove canned fruit from a cannery or an approved place without an entry made and passed authorizing the removal of the fruit.

Penalty: One hundred pounds.

Type of
entries.

22. Entries may be made by the producer or owner of canned fruit and passed by an officer, and may authorize—

- (a) the removal of the canned fruit for home consumption;
- (b) the removal of the canned fruit to an approved place; or
- (c) the removal of the canned fruit for exportation.

Approval of
removal
without entry.

23. A Collector may, subject to such conditions as he thinks fit, give permission in writing for the removal of canned fruit from a cannery or an approved place to a cannery or an approved place without an entry made and passed authorizing the removal of the canned fruit, and the canned fruit may be removed accordingly.

Removal
under
deposit of
money or
guarantee.

24.—(1.) A Collector may accept a deposit of money, or a guarantee, in respect of the Excise duty on canned fruit to be removed from a cannery or an approved place during a period approved by the Collector, and removal for home consumption from the cannery or approved place may be made during that period, without entry, of canned fruit the duty on which does not exceed the amount of the deposit or guarantee.

(2.) The producer shall, not later than thirty days after the expiration of the approved period, enter for home consumption canned fruit removed without entry during the period.

Penalty: One hundred pounds.

(3.) An officer shall not pass an entry for home consumption made under this section in respect of any canned fruit unless the Excise duty on the canned fruit has been paid.

25. The Excise duty on canned fruit shall be paid at the rate in force when the canned fruit is entered for home consumption or, if the canned fruit is removed from the cannery or an approved place in pursuance of the last preceding section before entry for home consumption, at the rate in force when the canned fruit is so removed. Rate of duty.

26. Excise duty is not payable on canned fruit that is exported. Duty not payable on exported canned fruit.

27.—(1.) Drawback of Excise duty may, subject to such conditions and restrictions as are prescribed, be allowed on the exportation of canned fruit. Drawbacks, remissions and refunds of duty.

(2.) Remissions and refunds of Excise duty on canned fruit may be allowed in such circumstances, and subject to such conditions and restrictions (if any), as are prescribed.

28. Nothing in this Act applies to, or in relation to, canned fruit that is not produced for commercial purposes, and canned fruit that is not produced for commercial purposes is exempt from any Excise duty that is imposed on canned fruit. Home-bottled fruit, &c., exempt.

29. A producer to whom a licence is granted within a period of two months after the commencement of this Act shall, within a period of fourteen days after the grant of the licence, furnish to the Collector of Customs for the State in which is situated the cannery in respect of which the producer is licensed particulars of all canned fruit that was in his stock, custody or possession, or belonged to him, on the date of commencement of this Act. Return of existing stocks of canned fruit.

Penalty: One hundred pounds.

30. If any agreement has been made before the commencement of this Act for the sale of canned fruit and the cost of supplying the canned fruit is affected by the imposition of Excise duty on canned fruit by the *Excise Tariff* 1921–1963 then, in the absence of express written provision to the contrary, the seller may add to the agreed price an amount equivalent to the amount by which the cost has been so increased. Alteration of agreements.

Regulations.

31. 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 a fine of One hundred pounds for offences against the regulations.