

STATUTORY RULES.

1963. No. 131.

REGULATIONS UNDER THE CANNED FRUIT EXCISE ACT 1963.*

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Canned Fruit Excise Act* 1963.

Dated this *twelfth*

day of *December*, 1963.

DE L'ISLE

Governor-General.

By His Excellency's Command,

Agda. NORMAN MERTON
Minister of State for Customs and Excise.

CANNED FRUIT EXCISE REGULATIONS.

1. These Regulations may be cited as the Canned Fruit Excise Citation. Regulations.

2.—(1.) In these Regulations—

Interpretation.

“the Act” means the *Canned Fruit Excise Act* 1963;

“the Excise Regulations” means the Excise Regulations as amended and in force from time to time.

(2.) In these Regulations, unless the contrary intention appears, a reference to a Form by number shall be read as a reference to the Form so numbered in the Schedule to these Regulations.

3. An application for a licence shall be in accordance with Form 1. Application for licence.

4. A licence shall be in accordance with Form 2. Licence.

5. The fee for a licence, or the renewal of a licence, is One pound. Licence fee.

6.—(1.) A producer shall, for the purposes of section 19 of the Act, prepare, and render to the Collector of Customs for the State in which his cannery is situated, within thirty days after the expiration of each month, a return, in such form as the Collector requires, showing—

(a) particulars of canned fruit that was in his stock, custody or possession, or belonged to him, at the commencement of the month;

* Notified in the *Commonwealth Gazette* on *12th December*, 1963.

- (b) particulars of canned fruit produced by him at the cannery during the month and particulars of other canned fruit that came into his stock, custody or possession, or into his ownership, during the month;
- (c) particulars of canned fruit that ceased to be in his stock, custody or possession, or to belong to him, during the month, showing particulars of the manner in which it so ceased; and
- (d) particulars of canned fruit that was in his stock, custody or possession, or belonged to him, at the expiration of the month.

(2.) A return rendered under the last preceding sub-regulation to a Collector shall be verified—

- (a) if the producer is a body corporate—by a declaration in writing under the hand of a person authorized by the producer to verify returns required by this regulation; or
- (b) in any other case—by a declaration in writing under the hand of the producer.

(3.) In this regulation, “ month ” means—

- (a) the period that commenced on the thirtieth day of October, 1963, and ended on the thirtieth day of November, 1963;
- (b) the month of December, 1963; and
- (c) the month of January, February, March, and so on, in each subsequent year.

7.—(1.) An entry under section 22 of the Act to authorize the removal of canned fruit for home consumption shall be in accordance with, or substantially in accordance with, Form 32 in the Schedule to the Excise Regulations. Entries.

(2.) An entry under section 22 of the Act to authorize the removal of canned fruit to an approved place shall be in accordance with, or substantially in accordance with, Form 33 in the Schedule to the Excise Regulations.

(3.) An entry under section 22 of the Act to authorize the removal of canned fruit for exportation shall be in accordance with, or substantially in accordance with, Form 34 in the Schedule to the Excise Regulations.

8.—(1.) Where—

- (a) canned fruit has, while subject to the control of the Customs, been damaged, pillaged, lost or destroyed;
- (b) canned fruit has, while subject to the control of the Customs, become unfit for human consumption; or
- (c) canned fruit that is subject to the control of the Customs is not worth the amount of Excise duty payable in respect of the canned fruit,

Remission or
refund of duty.

a remission or refund, as the case requires, of the Excise duty paid or payable in respect of the canned fruit may be allowed.

(2.) Where—

- (a) Excise duty has been paid on canned fruit through manifest error of fact or patent misconception of the law; or

- (b) canned fruit on which Excise duty has been paid becomes not liable to Excise duty by virtue of section 160A of the *Excise Act 1901-1963*,

a refund of the Excise duty paid in respect of the canned fruit may be allowed.

(3.) Where canned fruit in respect of which Excise duty has been paid and which has been delivered for home consumption becomes unfit for human consumption within twelve months after the date of delivery for home consumption, or within such longer period as the Minister, in any particular case, allows, a refund of the Excise duty paid in respect of the canned fruit may be allowed.

9. A remission or refund of Excise duty paid or payable in respect of canned fruit is not allowable under the last preceding regulation unless an application for the remission or refund is made to a Collector and the application—

Application for remission or refund of duty.

- (a) is in accordance with, or substantially in accordance with, Form 45 in the Schedule to the Excise Regulations; and
- (b) in the case of a refund under sub-regulation (1.) or (2.) of the last preceding regulation—is made within thirty days after the payment of the Excise duty in respect of the canned fruit.

10. Where a Collector is satisfied—

- (a) that the information necessary to verify an application for a refund of Excise duty under sub-regulation (1.) or (2.) of regulation 8 of these Regulations had come into the possession of the Customs before the delivery from the control of the Customs of the canned fruit or of the packages in which the canned fruit was originally packed or was assumed to have been packed; or
- (b) that, for some genuine and sufficient reason, an application of a kind referred to in the last preceding paragraph was not made within the time specified in paragraph (b) of the last preceding regulation and the circumstances are such that it is equitable that that time should be extended,

Extension of time for application.

a refund of Excise duty may be allowed, notwithstanding that the application for the refund was not made within the time specified in paragraph (b) of the last preceding regulation if the application is made not later than twelve months after the Excise duty was paid in respect of the canned fruit.

11. If, upon application by a person, an amount of Excise duty remitted or refunded in respect of canned fruit—

Payment of duty where remission or refund allowed in error, &c.

- (a) was remitted or refunded in circumstances in which Excise duty should not have been remitted or refunded; or
- (b) exceeded the amount of Excise duty that should have been remitted or refunded in respect of the canned fruit,

the person is liable to pay or repay to the Commonwealth the amount or the amount of the excess, as the case may be, and the Commonwealth may recover the amount that he is so liable to pay or repay as a debt due to the Commonwealth by action in a court of competent jurisdiction.

12.—(1.) A claim for drawback of any Excise duty paid in respect of canned fruit shall be made by furnishing to a Collector a drawback claim in accordance with a form approved by the Collector.

(2.) A claim for drawback of Excise duty shall be deemed not to have been made for the purposes of the last preceding sub-regulation if the drawback claim furnished to the Collector in accordance with that sub-regulation does not have endorsed on it a statement made by the person claiming drawback setting out—

- (a) that the canned fruit in respect of which the drawback is claimed has been exported;
- (b) that, to the best of the knowledge, information and belief of that person, the canned fruit has not been, and is not intended to be, re-landed in Australia; and
- (c) that that person was, at the time the canned fruit was exported, entitled to drawback on the exportation of the canned fruit.

(3.) A drawback claim shall not be passed for payment by the Collector until after—

- (a) the exportation of the canned fruit to which the drawback claim relates; and
- (b) evidence is produced to the satisfaction of the Collector that the canned fruit has been exported and that drawback is due.

(4.) Drawback of any Excise duty paid in respect of canned fruit is not payable, except with the consent of the Minister, unless the drawback claim in respect of the canned fruit is furnished to a Collector within one year after the exportation of the canned fruit.

THE SCHEDULE.

FORM 1. Regulation 3.
COMMONWEALTH OF AUSTRALIA.
Canned Fruit Excise Act 1963.

APPLICATION FOR LICENCE TO PRODUCE CANNED FRUIT.

To the Collector of Customs,
State of

hereby applies for a licence to produce canned fruit. The production of canned fruit is to be carried on at (a) of (b) (a) Insert full name of applicant.
as (c) and the cannery is known (b) Insert full address of applicant.
(d). (c) Insert full address of cannery.
Dated this day of , 19 . (d) Insert name (if any) of cannery.
Signature of applicant or person applying on behalf of applicant.

FORM 2. Regulation 4.
COMMONWEALTH OF AUSTRALIA.
Canned Fruit Excise Act 1963.

LICENCE TO PRODUCE CANNED FRUIT.

In pursuance of section 7 of the Canned Fruit Excise Act 1963,
of is hereby licensed to produce canned fruit at the
cannery situated at
Dated this day of , 19 .
Collector of Customs for
the State of

By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.