

CANNING-FRUIT CHARGE (ADMINIS- TRATION).

No. 82 of 1959.

An Act relating to the Payment and Collection of the Charge imposed by the *Canning-Fruit Charge Act 1959*.

[Assented to 2nd December, 1959.]

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

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the *Canning-Fruit Charge (Administration) Act 1959*.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. This Act is divided into Parts, as follows:— Parts.

Part I.—Preliminary (Sections 1–4).

Part II.—Administration (Sections 5–7).

Part III.—Registration of Cannery (Sections 8–9).

Part IV.—Collection and Recovery of Charge (Sections 10–16).

Part V.—Miscellaneous (Sections 17–23).

4. In this Act, unless the contrary intention appears— Definitions.

“canner” means a person registered as a canner under section nine of this Act;

“canned fruit” has the same meaning as in the *Canning-Fruit Charge Act 1959*;

“charge” means charge imposed by the *Canning-Fruit Charge Act 1959*;

“fruit” has the same meaning as in the *Canning-Fruit Charge Act 1959*;

“supplier”, in relation to fruit delivered to a cannery, means the person by whom, or on whose behalf, the fruit was delivered to the cannery;

“the Commissioner” means the Commissioner of Taxation;

“the Second Commissioner” means the Second Commissioner of Taxation;

“year” means a period commencing on the first day of July and ending on the following thirtieth day of June.

PART II.—ADMINISTRATION.

5. The Commissioner has the general administration of this Act. Commissioner.

6.—(1.) Subject to this section, the Second Commissioner has and may exercise all the powers and functions of the Commissioner under this Act. Powers of Second Commissioner.

(2.) Where in this Act the exercise of a power or function by the Commissioner, or the operation of a provision of this Act, is dependent upon the opinion, belief or state of mind of the Commissioner in relation to a matter, that power or function may be exercised by the Second Commissioner or that provision may operate, as the case may be, upon the opinion, belief or state of mind of the Second Commissioner in relation to that matter.

(3.) Nothing in this Act shall be deemed to prevent the exercise of a power or function by the Commissioner under this Act, and the Commissioner has, in relation to an act of the Second Commissioner, the same power as if that act were done by the Commissioner.

Reference to
Commissioner.

7. A reference in this Act to the Commissioner shall be deemed to include—

- (a) in respect of matters as to which the Second Commissioner has exercised a power or function conferred upon him by this Act—a reference to the Second Commissioner; and
- (b) in respect of matters as to which a Deputy Commissioner of Taxation has exercised a power or function conferred upon him by delegation—a reference to that Deputy Commissioner.

PART III.—REGISTRATION OF CANNERS.

Person not
to can fruit
unless
registered.

8. A person shall not, on or after a date one month after the commencement of this Act, engage in the production of canned fruit unless he is registered as a canner under the next succeeding section.

Penalty: Two hundred and fifty pounds.

Registration
as a canner.

9.—(1.) The Commissioner shall, on an application by a person in accordance with a form approved by the Commissioner, register that person as a canner.

(2.) The Commissioner may, on the request of a person registered as a canner under this section, cancel the registration.

PART IV.—COLLECTION AND RECOVERY OF CHARGE.

Charge to
be paid to
Commissioner.

10. Subject to this Part, the charge payable by a person shall be paid by him to the Commissioner on or before the expiration of the year in which the charge became payable.

Canner to
deduct amount
equal to charge.

11.—(1.) Before making a payment for fruit delivered to a cannery, the canner shall—

- (a) deduct from the amount to be paid an amount equal to the charge (if any) payable by the supplier in respect of that fruit; and
- (b) pay to the Commissioner an amount equal to the amount so required to be deducted.

Penalty: Two hundred pounds.

(2.) A payment under paragraph (b) of the last preceding sub-section shall be deemed to have been made with the authority, and on behalf, of the supplier.

(3.) Where an amount is paid to the Commissioner under paragraph (b) of sub-section (1.) of this section, the Commissioner shall credit the amount in payment or part payment of the charge payable by the supplier.

12. When a canner makes a deduction under the last preceding section, he shall furnish to the supplier a statement of the amount of the deduction.

Canner to furnish statement to supplier.

Penalty: One hundred pounds.

13. A person shall, at the time of paying to the Commissioner an amount or amounts under section ten or eleven of this Act, furnish to the Commissioner a statement, in a form approved by the Commissioner, with respect to the amount or amounts paid.

Canner to furnish statement to Commissioner.

Penalty: One hundred pounds.

14.—(1.) Where a person fails to pay an amount to the Commissioner in accordance with section ten or eleven of this Act, the amount is a debt due by that person to the Commonwealth and may be sued for and recovered in a court of competent jurisdiction.

Amount not paid is a debt due to the Commonwealth.

(2.) In proceedings for recovery of an amount referred to in the last preceding sub-section, a statement or averment in the complaint, claim or declaration is evidence of the matter so stated or averred.

15. Where the Commissioner is satisfied that a canner has, in accordance with paragraph (a) of sub-section (1.) of section eleven of this Act, deducted an amount from an amount to be paid for fruit delivered by, or on behalf of, a supplier but has not paid to the Commissioner an amount equal to the amount so deducted, the Commissioner may direct that the charge payable by the supplier be reduced by an amount not greater than the amount so deducted.

Failure of canner to deal with deductions.

16.—(1.) Subject to this Act, where—

Refunds.

- (a) a canner deducts from an amount to be paid to a supplier an amount that exceeds the amount that the canner is required to deduct under paragraph (a) of sub-section (1.) of section eleven of this Act and pays an amount equal to the amount so deducted to the Commissioner on behalf of the supplier;
- (b) a canner pays to the Commissioner on behalf of a supplier an amount that exceeds the amount that the canner has deducted under paragraph (a) of sub-section (1.) of section eleven of this Act with respect to that supplier; or
- (c) a person pays to the Commissioner under section ten of this Act an amount that exceeds the charge payable by the person,

the Commissioner shall refund the amount of the excess.

(2.) A refund shall not be made under paragraph (a) of the last preceding sub-section unless the Commissioner is satisfied that the canner has repaid to the supplier an amount equal to the amount of the refund.

(3.) A refund shall not be made to a canner or other person unless he furnishes to the Commissioner such information, certified in such manner as the Commissioner requires, as will enable the Commissioner to determine the amount of the refund.

PART V.—MISCELLANEOUS.

Power to call
for returns.

17.—(1.) For the purposes of this Act, the Commissioner may, by notice in writing, require a person to furnish to him, within the time specified in the notice, such returns or information as he requires.

(2.) A person shall not fail or neglect duly to furnish a return or information that he is required under the last preceding sub-section to furnish.

Penalty: One hundred pounds.

False return
not to be
furnished.

18. A person shall not, for the purposes of this Act, furnish a return or information that is false or misleading in a particular.

Penalty: One hundred pounds.

Canner to keep
proper records.

19. A canner shall—

(a) keep proper records showing full and correct particulars of—

- (i) the fruit delivered to his cannery;
- (ii) the prices paid by him for the fruit so delivered;
- (iii) the fruit accepted at his cannery as of canning quality; and
- (iv) the fruit (other than fruit referred to in the last preceding sub-paragraph) taken into his cannery for use in the production of canned fruit; and

(b) produce all or any of those records, upon demand, to a person referred to in the next succeeding section.

Penalty: Two hundred and fifty pounds.

Access to
books, &c.

20. A person authorized by the Commissioner to act under this section shall at all times have full and free access to all buildings, places, books, accounts and documents for any of the purposes of this Act and for that purpose may make extracts from, or copies of, any such books, accounts or documents.

Obstructing
officers.

21. A person shall not obstruct or hinder a person acting in the discharge of his duty under this Act or the regulations.

Penalty: One hundred pounds.

22. Where the Commissioner is satisfied that a person has not received, and is unlikely to receive, payment, either in whole or in part, for fruit sold by him to a canner, being fruit in respect of which charge is payable by that first-mentioned person, the Commissioner shall direct that charge shall not be payable in respect of that fruit. **Exemption.**

23. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular— **Regulations.**

- (a) requiring persons to furnish returns for the purposes of this Act; and
 - (b) prescribing penalties not exceeding Fifty pounds for offences against the regulations.
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