

## FARM PRODUCE AGENTS ACT.

## Act No. 7, 1926.

An Act to provide for the registration and regulation of farm produce agents; to prohibit certain practices and to regulate in certain respects the sale and disposal of farm produce; to amend the Companies Act, 1899, and certain other Acts; and for purposes connected therewith. [Assented to, 17th March, 1926.]

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Farm Produce Agents Act, 1926." Short title and commencement.

(2) This Act shall come into operation on a day to be appointed by the Governor, and notified by proclamation published in the Gazette.

**2.** In this Act, unless the context otherwise indicates or requires,— Interpretation.

"Farm produce" means vegetables, potatoes, and other edible roots and tubers, fruit, eggs, poultry, and such other articles or classes of articles as may be declared to be farm produce in the manner hereinafter provided. cf. Qld., 8 Geo. V, No. 17, s. 2.

"Farm produce agent" means any person who, as an agent for others, whether on commission or for or in expectation of any fee, gain, or reward, whether alone or in connection with any other business, exercises or carries on the business

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business or advertises or notifies that he exercises or carries on the business of selling farm produce or of a broker or factor of farm produce, but does not include a person being a licensed auctioneer, conducting a clearing out sale of the vendors own farm produce on the vendors property, or a person employed merely as a clerk or servant or any banking company or any society registered under the Co-operation, Community Settlement, and Credit Act, 1923, whose objects include the disposal of the agricultural products of its members or other persons.

“License” means a license issued under the provisions of this Act.

“Prescribed” means prescribed by this Act or the regulations made thereunder.

Power to extend to other agricultural products.  
cf. Qld.,  
8 Geo. V,  
No. 17, s. 2.

**3.** The Governor may from time to time by proclamation published in the Gazette declare that any other article or class of articles shall be farm produce for the purposes of this Act, but no such proclamation shall be issued until the issue thereof has been approved by a resolution passed by both Houses of Parliament.

Appointment of officers.

**4.** The Governor may, in accordance with the Public Service Act, 1902, or any Act amending the same, appoint a registrar and such other officers as are necessary for carrying out the provisions of this Act.

Farm produce agents not to carry on business unless licensed.

**5.** Any person who acts as or carries on or advertises or notifies that he acts as or carries on the business of a farm produce agent, unless he is the holder of a license, shall be guilty of an offence against this Act.

Register.

**6.** The registrar shall, in the prescribed manner, keep a register of farm produce agents.

License.

**7.** (1) Any person desirous of obtaining a license shall make application in the prescribed manner to the registrar.

(2) If an applicant for a license is not disqualified as hereinafter provided, the registrar shall enter such applicant in the register of farm produce agents and shall issue a license to him.

(3)

(3) No applicant shall be registered nor shall any license be issued to any person until he has furnished to the registrar— George V,  
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- (a) a bond in the prescribed form for five hundred pounds from some insurance company; or
- (b) where he has previously furnished such a bond, a receipt for the renewal premium thereon or a certificate by the company of the renewal thereof; or
- (c) security in some such other form as may be prescribed to be available in such circumstances and to such persons as may be prescribed.

(4) A license shall take effect from the date thereof and shall, unless revoked as hereinafter provided, remain in force until the thirty-first day of December next following such date.

(5) There shall be payable in respect of every license, and of every annual renewal thereof, the fee of twenty shillings.

**8.** No person shall be qualified to hold a license if he— Disquali-  
cation.

- (a) is under the age of twenty-one years; or
- (b) has in or beyond the Commonwealth of Australia been convicted during the immediately preceding period of five years of any felony or offence punishable by imprisonment for a term exceeding three months; or
- (c) has within the like period been declared by any court of competent jurisdiction in or beyond the Commonwealth of Australia to have committed any fraud; or
- (d) has in or beyond the Commonwealth of Australia been adjudged bankrupt or insolvent and has not obtained his certificate of discharge; or
- (e) has in or beyond the Commonwealth of Australia during the immediately preceding period of five years either individually or as a partner made any assignment for the benefit of creditors, or made any arrangement for the payment of a composition to creditors, and in any such case has not paid his unsecured creditors at least ten shillings in the pound; or
- (f)

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(f) has committed any offence under this Act for which his license has been cancelled within the immediately preceding period of five years.

Corporation.

9. (1) The registrar may by notice in or to the effect of the prescribed form require any corporation which is the holder of a license to have the name of any person who is disqualified from holding a license on any of the grounds set out in paragraphs (b), (c), (e), or (f) of section eight removed from the share register of the corporation within a time not less than three months specified in the notice. In default of compliance by the corporation with the notice within the time specified or within such further time as may be allowed by the registrar, the license of the corporation may be cancelled by the registrar.

When a license is so cancelled the corporation shall be disqualified from holding a license until the name of the disqualified person is removed from its share register.

(2) Any corporation however constituted may, notwithstanding the provisions of its articles of association, deed of settlement, or of any Act, require any holder of its shares in respect of whom a notice has been received from the registrar under subsection one of this section to dispose of and entirely divest himself of any interest, legal or equitable, in the shares whereof he is registered in the share register of the corporation, either as sole or joint owner, within a time not less than two months, specified in a notice in that behalf given to the shareholder. If a transfer of the shares to a purchaser is not presented to the corporation for registration within the time specified, or within such further time as the registrar may allow, the shareholder shall be guilty of an offence against this Act and, in addition, the corporation may itself make sale and dispose of the shares, and make all such cancellations and entries in its share register as are necessary to comply with the notice of the registrar.

Any moneys received by the corporation shall, after payment of the expenses of sale, be paid or credited to the person whose shares were sold.

(3)

(3) The registrar may give notice to a holder of a license who is a member of a firm carrying on business as farm produce agents, that any other partner thereof is a person who is disqualified to hold a license on any of the grounds set out in paragraphs (b), (c), (d), (e) or (f) of section eight, and that steps to dissolve the partnership should be taken within a time specified in the notice, or such further time as the registrar may allow.

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Firm.

The fact that a partner is disqualified to hold a license shall be a sufficient ground upon which to dissolve a partnership carrying on business as farm produce agents.

**10.** (1) The license of any farm produce agent may be cancelled by the registrar if—

Cancellation.

- (a) such license has been issued erroneously or in consequence of any false or fraudulent document, statement or representation; or
- (b) the holder of such license was at the date of issue thereof or thereafter became disqualified to hold a license; or
- (c) the holder thereof commits any offence against this Act; or
- (d) being a corporation the holder fails to comply with a notice given by the registrar under section nine of this Act; or
- (e) being a member of a firm, of which any other member is disqualified to hold a license, the holder fails to comply with a notice given by the registrar under section nine of this Act; or
- (f) the holder employs in the control or management of his business as a farm produce agent any person who is disqualified to hold a license on any ground specified in paragraphs (b), (c), (d), (e), or (f) of section eight of this Act after notice has been given to him by the registrar that such person is so disqualified.

(2) Before cancelling the license the registrar shall give the agent the prescribed notice, and shall hear and consider any representations made to him.

**11.** (1) When the registrar refuses to license any applicant or cancels any license, he shall forthwith give notice of such refusal or cancellation to the applicant or farm produce agent as the case may be.

(2)

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(2) Such applicant or farm produce agent may, within one month after the date of such notice, in manner prescribed by rules of court appeal to a judge of the district court.

(3) Such appeal shall be in the nature of a rehearing, and the decision of the judge shall be final, and effect shall be given thereto by the registrar.

Offences.

**12.** Any person (not being the holder of a license) who—

- (a) acts as or carries on or advertises or notifies that he acts as or carries on business as a farm produce agent; or
- (b) has any words painted or written or allows to remain unobliterated any words that have been painted or written over or about his house, window, or premises that lead to the belief or supposition that he is a farm produce agent; or
- (c) places or causes to be placed any placard, board, writing, or thing in the public view to the intent that it may be believed or supposed that he is a farm produce agent,

shall be liable to a penalty not exceeding one hundred pounds.

Inspection of  
books, &c.

**13.** (1) The registrar or any person authorised by him may at any time inspect any books, accounts, registers, documents or writings in the custody or control of any farm produce agent relating to his business as such farm produce agent, and may take notes, copies or extracts thereof or therefrom.

(2) Any person who obstructs the registrar or any person so authorised, and any farm produce agent or servant of a farm produce agent who refuses to produce such books, accounts, registers, documents or writings or to answer any question relating to such books or accounts or to any farm produce received by the farm produce agent or who wilfully gives any untruthful answer to any such questions shall be guilty of an offence.

(3) The registrar may communicate to any client of the farm produce agent a report of the result of such inspection so far as it directly concerns such client.

**14.**

**14.** Every farm produce agent within seven days after the sale or other disposal of any farm produce shall render to the person on whose behalf such sale or disposal was made, an account in writing of such sale or disposal.

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Advice of  
sales.

**15.** (1) All moneys received by a farm produce agent in respect of the sale of any farm produce over and above such sum as he has paid or advanced to the person from whom he has received the produce shall forthwith upon the receipt thereof by him be paid by him into a bank, to a trust account, and therein retained until disbursed as hereinafter mentioned.

Trust  
account.

(2) Such farm produce agent shall be entitled to draw against such trust account in payment of—

- (a) the expenses, commission, and other charges of or incidental to such sale or disposal; and
- (b) any moneys owing to such farm produce agent by the person on whose behalf the sale or disposal was carried out.

(3) Every farm produce agent shall, within fourteen days after the sale of any farm produce pay to the person on whose behalf the sale was carried out or as such person may direct the amount due to such person in respect of the sale.

(4) Every farm produce agent shall, within fourteen days after a trust account is opened by him in accordance with this section, notify the registrar in writing of the name of the trust account and the name and situation of the bank. Within fourteen days after any change of the name of such account in such bank, or of the bank in which any such trust account is kept to another bank, a like notice shall be sent to the registrar by the farm produce agent.

(5) A farm produce agent shall if required by the registrar produce the bank pass book relating to the trust account showing the state of the trust account at the date when such production is required.

**16.** Moneys paid into such trust account shall not be available for payment of the debt of any other creditor of the farm produce agent, or be liable to be attached or taken in execution under the order or process of any court at the instance of any such creditor.

Protection of  
trust account.

**17.**

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Fraudulent  
accounts.

**17.** A farm produce agent who fraudulently renders an account of the sale or disposal of any farm produce or of any moneys received by him in connection therewith, or of the application of such moneys, knowing the same to be false in any material particular, shall be liable upon conviction upon indictment to imprisonment with hard labour for a period not exceeding three years.

Restriction  
on agents  
purchasing  
consign-  
ments.  
Qld.,  
8 Geo. V,  
No. 17, s. 5.

**18.** (1) A farm produce agent, who directly or indirectly, or by himself or any partner or subagent, purchases any farm produce consigned or delivered to him for sale by any principal without having previously obtained the consent in writing of such principal to such purchase, shall be guilty of an offence against this Act.

(2) Any employee of a farm produce agent who purchases or is in any way interested or concerned in the purchase of any farm produce consigned or delivered for sale to his employer by any principal without having previously obtained the consent in writing of such principal to such purchase shall be guilty of an offence against this Act.

(3) Any farm produce agent who charges commission in respect of any farm produce which is taken over by him as a purchaser or for his own use shall be guilty of an offence against this Act.

(4) A farm produce agent who commits any offence mentioned in this section, and any partner, or other person knowingly concerned in such offence, shall be liable to a penalty not exceeding fifty pounds, and, in addition, the farm produce agent shall be ordered by the court adjudicating on the complaint to account for and pay over to his principal the profits resulting from the purchase.

Destruction  
of farm  
produce.

**19.** (1) Any farm produce agent who by himself or his agent or servant destroys or casts away any farm produce which is in a marketable condition shall be guilty of an offence against this Act.

(2) In any prosecution under this section, it shall be a sufficient defence to show that on the occasion  
in



in question the destruction or casting away did not raise or tend to raise the price of similar farm produce to the public, or that the destruction or casting away was done by the direction of any health officer or prescribed officer of the Department of Agriculture.

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**20.** Any person who knowingly and fraudulently spreads any false rumour with intent to enhance or to deery the price of any farm produce shall be guilty of an offence against this Act.

Spreading  
false  
rumours.

**21.** Any person who in any market buys any farm produce wholesale and afterwards in the same or in another market within three miles sells the same farm produce wholesale at an enhanced price shall be guilty of an offence against this Act.

Forestalling.

**22.** Any person who sells, offers, or exposes for sale, or supplies any farm produce knowingly represented by him expressly or impliedly, to be of a particular description, origin, grade or quality, shall if such farm produce is of a different description, origin, grade or quality, be guilty of an offence against this Act.

Misrepresentat.on of  
description,  
grade, &c.

**23.** A farm produce agent shall not be entitled to sue for or recover any fees, charges, commission, reward, or other remuneration for or in respect of the sale or disposal of any farm produce unless—

Regulation of  
commission.

- (a) he is the holder of a license; and
- (b) such remuneration is not in excess of such fees and charges as may from time to time be prescribed.

**24.** The place of business mentioned in the application for a license, or such other place of business as the farm produce agent from time to time by notice in writing to the registrar appoints, shall be the registered office of the farm produce agent, and there shall be painted up or affixed and kept painted up or affixed at such place of business a sign in easily legible characters bearing the name of the farm produce agent and the words "Licensed Farm Produce Agent," and all written notices or other documents required to be served or given to the farm produce agent shall be deemed to be duly served or given if left at the said registered office.

Registered  
office.

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Entries in  
agents' books  
deemed made by  
him.

*Qid.*, 8 Geo. V,  
No. 17, s. 8.

Civil  
remedies  
not affected.  
*Ibid.*, s. 9.

Offence by  
corporation.

Right to  
inspect and  
sue upon  
bond.

Evidence.

Penalties.

**25.** Every entry in any book kept or belonging to any farm produce agent or found on his premises and relating to his business as a farm produce agent shall be deemed, unless the contrary is shown, to have been made by or with the authority of such farm produce agent.

**26.** Nothing in this Act shall affect any civil remedy that any person may have against a farm produce agent in respect to any matter.

**27.** Where any offence against any of the provisions of this Act is committed by a corporation, the chairman of directors and every managing director, and every officer concerned in the management of the corporation shall be liable to the punishment provided by this Act for such offence unless the person charged proves that the offence charged was committed without his knowledge or connivance and without any negligence on his part.

**28.** (1) Any person for whom any farm produce agent is acting or has acted may, on payment of the prescribed fee, inspect the bond lodged by such agent and may take a copy thereof.

(2) Any such person, with the written consent of the registrar, may sue upon any such bond for indemnity in respect of any loss covered by the bond.

**29.** In any proceedings against any person for having acted or carried on business or for having advertised or notified that he acts or carries on business as a farm produce agent without a license, a certificate in the prescribed form under the hand of the registrar of whose signature judicial notice shall be taken, may be received in evidence to prove the fact that the person charged did not on the date mentioned in the certificate hold a license.

**30.** (1) Any person contravening any of the provisions of this Act shall, when no other penalty is expressly provided, be liable on conviction to a penalty not exceeding fifty pounds.

(2) Penalties imposed by this Act or by any regulation made thereunder may be recovered in a summary manner before a stipendiary or police magistrate or any two justices in a court of petty sessions.

**31.**

**31.** If, on application made in the prescribed manner within one year after the commencement of this Act, the Governor is satisfied that any company which is registered or deemed to be registered under the Companies Act, 1899, is trading or carrying on business for the purpose of promoting the economic interests of its members substantially in accordance with co-operative principles, the Governor may direct that the company shall not be deemed to be a farm produce agent within the meaning of this Act for such period and upon such conditions as he may deem proper.

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Company on  
co-operative  
lines.

**32.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which 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 and without limiting the generality of the foregoing power, the Governor may prescribe—

Regulations.

- (a) the manner in which the register of farm produce agents shall be kept;
- (b) the manner of application for and of issue of licenses;
- (c) the forms of licenses and of notices under this Act and the regulations;
- (d) the form of bond to be given by an applicant for a license;
- (e) the books to be kept by farm produce agents and the manner of keeping the same, and the form and manner of issue of receipts for money received by farm produce agents on account of any other person;
- (f) the maximum fees, charges and other remuneration which farm produce agents may charge for their services;
- (g) the fees which may be charged under this Act;
- (h) the issue of official market reports with respect to farm produce;
- (i) the form and particulars of account sales to be rendered by farm produce agents to their principals.

(2) Such regulations may prescribe a penalty not exceeding twenty pounds for any breach thereof.

(3)

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- (3) Such regulations shall—
- (a) be published in the Gazette ;
  - (b) take effect from the date of publication, or from a later date to be specified in such regulations ; and
  - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.