

FARM PRODUCE AGENTS ACT 1928.

19 GEORGE V. An Act to consolidate the Law relating to the Licensing
No. 3678. of Farm Produce Agents and purposes incidental
thereto.

[12th February, 1929.]

*Farm Produce
Agents Act
1920.*

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title
and
commencement.

1. This Act may be cited as the *Farm Produce Agents Act 1928*, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Repeal.

First Schedule.

2. The Acts mentioned in the First Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed. Such repeal shall not affect any regulation made or any right accrued or any liability incurred under the said Acts or either of them before the commencement of this Act.

Interpretation.
Id. s. 2.

3. In this Act unless inconsistent with the context or subject-matter—

"Farm produce
agent."

"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 connexion with any other business exercises or carries on the 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. The term does not include a person employed merely as a clerk or servant or any banking company.

"Farm produce" means cereals grain vegetables potatoes onions and other edible roots and tubers fruit hay and chaff and all dairy produce. The term includes live or dead poultry and game and eggs and any other article or class of articles which the Governor in Council by Order may from time to time declare to be farm produce for the purposes of this Act.

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"Farm produce."

"Person" includes a corporation or company.

"Person."

"Licensed" means licensed under this Act.

"Licensed."

"Prescribed" means prescribed by regulations under this Act.

"Prescribed."

"This Act" means this Act and any regulations made thereunder.

"This Act."

4. This Act shall be administered in the Department of Agriculture.

Administration of Act.
Id. s. 3.

5. The provisions of this Act relating to the licensing and regulation of farm produce agents shall not apply to any responsible Minister of the Crown or any Government Department (including the Board of Land and Works, the State Rivers and Water Supply Commission, the Victorian Railways Commissioners, the Forests Commission, the Closer Settlement Board, the Country Roads Board, and the State Electricity Commission of Victoria) or to any public statutory authority specified by Order in Council or to any officer or employé of the Crown or of any such Minister Department or authority in the exercise of his functions as such officer or employé.

Act not to apply to any Government Department &c.
Id. s. 4.

6. (1) Any person company or firm desirous of obtaining a farm produce agent's licence shall deliver to the clerk of the court of petty sessions for the court nearest to the place where such person resides or carries on business notice of intention to apply for such licence and a certificate signed in their own handwriting by six householders residing in the locality in which the applicant resides or carries on business, which notice and certificate respectively shall be in the prescribed form and shall be delivered as aforesaid at least seven days before the day mentioned in the notice as the day on which the application will be made.

Farm produce agents to be licensed.
Id. s. 5.
Farm Produce Agents Act 1922 s. 2.

(2) The court of petty sessions shall consider the application and may if satisfied that the applicant is a fit and proper person to hold such licence grant and cause to be issued to him a licence in the prescribed form: Provided that no such licence shall be issued to any person under the age of twenty-one years.

Effect and duration of licence.

(3) Such licence shall entitle the holder thereof to carry on the business of a farm produce agent in all parts of the State and unless sooner cancelled shall continue in force until the thirty-first day of December next after the date thereof but may on a similar notice and application (and without a householders' certificate) be renewed from year to year as the court thinks fit.

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Licence-fee.

(4) There shall be payable in respect of every such licence and of every annual renewal thereof the fee of Twenty shillings unless the applicant or any employé already holds an auctioneer's licence in which case a licence shall be granted or renewed under this Act without fee.

*Farm produce
agents not to
carry on unless
licensed.
Ib. s. 6.*

7. (1) No person shall exercise or carry on or advertise or notify that he exercises or carries on the business of a farm produce agent unless he is licensed.

(2) Where a firm exercises or carries on the business of a farm produce agent it shall be sufficient if one member of the firm is licensed on behalf of the firm.

*Carrying on
business
without
licence.*

(3) Every person (not being licensed) who exercises or carries on business as a farm produce agent or advertises or notifies that he carries on such business or who has any words painted or written or allows to remain unobliterated any words that have been painted or written over or about or near his house window or premises that lead to the belief or supposition that he is a farm produce agent or who 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 Twenty-five pounds.

*Onus of proof
that person is
licensed.*

(4) In any proceedings against any person for any breach of sub-section (3) hereof such person shall unless he produces his licence or brings other satisfactory proof of his having been licensed at the time when the offence was alleged to have been committed be deemed to have been unlicensed.

*Provisions as
to companies.
Ib. s. 7.*

8. (1) A company may apply for and be granted a licence.

(2) Such a licence may on payment of the prescribed fee be granted in respect of the principal office of the company and each branch or agency (if any) of the company.

(3) Every company being the holder of a licence shall be liable for any offence under this Act as if such company were a private person and shall be subject to the same penalties as if it were a private person and every director manager secretary or officer of such company who knowingly authorizes or permits the commission of any such offence shall also be liable therefor.

*Applications
and notices in
the case of
companies and
firms.
Ib. s. 8.*

9. Where any notice or application is authorized or required to be given or made by any person in respect of a licence the same may in the case of a company be given or made on behalf of the company by any director manager secretary or officer thereof and in the case of a firm by any member of the firm.

*Ceasing to be
licensed.
Ib. s. 9.
Licences may
be cancelled.*

10. (1) Every person shall cease to be licensed on the expiration or cancellation of his licence.

(2) Any court may on the complaint of any person against a licensed farm produce agent that he has been guilty of any offence against this Act or that such licensee is in any other respect unfit to hold a licence cancel such licence.

(3) If any licensed farm produce agent is convicted of an indictable offence his licence shall be deemed to be *ipso facto* cancelled.

(4) The clerk of the court at which any licence is granted renewed or cancelled shall enter particulars of the same in a register to be kept by him.

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Register to be kept.
Farm Produce Agents Act 1928 s. 2.

11. It shall not be lawful for—

- (a) any farm produce agent whether directly or indirectly or by himself or any partner or sub-agent to purchase or be in any way concerned or interested in the purchase of any farm produce consigned or delivered to him for sale by any principal without disclosing to such principal the fact that he has purchased such produce :

Restriction on agent purchasing consignments.
Farm Produce Agents Act 1920 s. 10.

Every farm produce agent who commits a breach of this provision or any partner sub-agent or other person knowingly concerned in such breach shall be liable to a penalty not exceeding Fifty pounds and in addition such farm produce agent shall be ordered by the court adjudicating on the complaint to account for and pay over to his principal all profits resulting from the purchase in respect of which such breach was committed ;

- (b) any employé of a farm produce agent to purchase or be in any way interested or concerned in the purchase of any farm produce consigned or delivered for sale to his employer except when so instructed by his employer ; and the employer shall be subject to the like obligation as is imposed by paragraph (a) of this section to disclose to his principal the fact of such purchase :

Every such employé who commits a breach of this provision shall be liable to a penalty not exceeding Fifty pounds.

12. A farm produce agent shall within ten days from the date of a sale and delivery supply to every vendor or principal for whom he has disposed of goods an account sales note in the form of the Second Schedule to this Act.

Account sales note to be furnished.
ib. s. 11.
Second Schedule.

13. A farm produce agent who has not received all the particulars necessary to enable him to render a complete account sales note within ten days of a sale may within the said period of ten days supply to the vendor a *pro forma* account sales note covering a payment to the vendor of ninety per cent. of the estimated net proceeds of the sale and such agent shall supply to the vendor within thirty-five days of the sale a completed account sales note and remit therewith the balance of the proceeds to the vendor.

Pro forma account sales note may be furnished in certain cases.
ib. s. 12.

Farm Produce Agents Act 1928 s. 13.
Penalty for neglect to supply account sales note or making false return.

14. Every farm produce agent who neglects to supply to each vendor or principal an account sales note or who knowingly and wilfully makes or delivers any false return relating to the sale of goods shall be guilty of an offence against this Act. Every farm produce agent guilty of a breach of this section shall be liable to a penalty of not less than Five nor more than Twenty pounds for each and every breach.

Account sales book to be kept and to be open for inspection.
Ib. s. 14.

15. (1) Every farm produce agent shall keep an account sales book wherein shall be recorded full particulars of all consignments sold and shall permit such account sales book to be inspected by his principal or any other person authorized by the principal in that behalf so far as such book or the entries therein relate to transactions in which such principal is concerned.

(2) Every farm produce agent who is guilty of any contravention of or failure to comply with the provisions of this section shall be liable to a penalty of not more than Fifty pounds.

Application of trust moneys.
Ib. s. 15.

16. (1) All moneys received by a farm produce agent in respect of any transaction shall be applied in payment of—

- (a) the expenses commission and other charges of or incidental to the transaction; and
 - (b) any moneys owing to such agent by the person on whose behalf the transaction was carried out; and
 - (c) the balance (if any) to such person or as he may direct;
- and until such payment such balance shall be paid into a bank to a trust account.

(2) Every farm produce agent who commits a breach of this section shall be liable to a penalty not exceeding Fifty pounds.

(3) 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.

Entries in agent's books deemed made by him.
Ib. s. 16.

17. (1) Every entry in any book kept or belonging to a licensed farm produce agent or found on his premises shall be deemed unless the contrary is shown to have been made by or with the authority of such agent.

Copy of entries in registers to be evidence.

(2) A copy of any entry in any prescribed register purporting to be signed by the clerk of the court or any officer of the Department making the same shall be *prima facie* evidence of the truth of the matters stated in such copy.

Disqualification of farm produce agent convicted of indictable offence or guilty of fraud.
Ib. s. 17.

18. (1) If a farm produce agent is convicted in any court of any indictable offence or if in any proceeding before a court to which such farm produce agent is a party the court or judge is satisfied that such farm produce agent has been guilty of fraud and that he ought to be disqualified from carrying on the business of a farm

produce agent any such court of judge may order that such farm produce agent—

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(a) shall deliver up any licence held by him to the court ; and

(b) shall be disqualified from holding a licence either permanently or for such period as the court or judge specifies.

(2) The clerk or other proper officer of the court shall forthwith transmit to the Treasurer of Victoria a copy of any such order.

Certificate of conviction to be sent to Treasurer of Victoria.

(3) Upon receipt of such copy the Treasurer shall forthwith cause a notice of such disqualification to be published in the *Government Gazette*.

Publication of disqualification.

19. In every case where a licence is delivered up to the court under this Act it shall be transmitted forthwith by the clerk or other proper officer of the court to the Treasurer of Victoria.

Certificate delivered up to court to be sent to Treasurer of Victoria.
Id. s. 18.

20. Nothing in this Act shall affect any civil remedy which any person may have against a farm produce agent in respect of any matter.

Civil remedies not affected.
Id. s. 19.

21. (1) All proceedings for penalties and for the cancellation of any licence under this Act may be heard and determined in a summary way.

Hearing of complaints.
Id. s. 20.

(2) All fees and penalties shall when recovered be paid into the consolidated revenue :

Appropriation of fees &c.

Provided that where it is proved to the satisfaction of the adjudicating court that any person has sustained any loss or damage by reason of the act or default of the defendant which constitutes the offence the court may award to such person such part of the penalty imposed as it thinks fit by way of compensation for such loss or damage.

22. (1) The Governor in Council may from time to time make regulations with respect to all or any of the following matters :—

Regulations.
Id. s. 21.

(a) The form manner and place of registration of licences renewals cancellations and other matters requiring registration under this Act where not specially provided for in this Act.

Licences.

(b) Means for circulating throughout Victoria or any part thereof lists of licences and cancellations thereof.

Lists.

(c) The checking of weights of farm produce and the rendering of accounts as to weights.

Weights.

(d) Imposing penalties not exceeding Fifty pounds for the breach of any regulation.

Penalties.

(e) Regulating the procedure for the cancellation of licences.

Cancellation of licences.

(f) Prescribing forms to be used under this Act.

(2) All forms prescribed in pursuance of this section may be used for the purposes of this Act and shall be sufficient in law.

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Publication of
regulations.

(3) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the publication thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.

SCHEDULES.

Section 2.

FIRST SCHEDULE.

Number of Act.		Title of Act.	Extent of Repeal.	
3082	<i>Farm Produce Agents Act 1920</i>	The whole.
3184	<i>Farm Produce Agents Act 1922</i>	The whole.

Section 12.

SECOND SCHEDULE.

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[Here insert name of farm produce agent and date.]

ACCOUNT SALES NOTE.

Name of Purchaser
Address
Nature of Produce
Quantity sold
Sale price
Total price paid
Commission charged

NOTE.—The name of the purchaser and address need only be given when asked for.