



Agricultural Produce (Grading and Marking) Act 1928

1928 CHAPTER 19

An Act to provide for the grading and marking of agricultural produce and for purposes connected with the matters aforesaid. [3rd August 1928.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Grading of Agricultural Produce

1 Prescription and use of grade designations

- (1) The Minister may by regulations made under this Act prescribe such designations (in this Act referred to as " grade designations") as he may consider appropriate to indicate the quality of any articles of agricultural produce, and any such regulations shall contain a definition (in this Act referred to as " the statutory definition ") of the quality indicated by every grade designation thereby prescribed.
- (2) Where any person sells any article of agricultural produce to which a grade designation is applied, then, notwithstanding any contract or notice to the contrary, it shall be deemed to be a term of the contract of sale that the quality of the article accords with the statutory definition indicated by the grade designation.
- (3) For the purposes of this Act, a grade designation shall be deemed to be applied to an article if it is used by or on behalf of the vendor, when the article is sold or delivered or exposed or offered for sale, in any manner calculated to lead to the belief that the quality of the article in connection with which it is used accords with the statutory definition indicated by the grade designation.

2 Grade designation marks

- (1) Regulations made by the Minister under this Act may prescribe such mark (in this Act referred to as a "grade designation mark") as he may consider appropriate to represent any grade designation, and may make provision for authorising, or empowering any person or body of persons to authorise, subject to such conditions as may be attached to the authorisation, the marking with a grade designation mark of any article in respect of which such a mark has been prescribed or of any covering containing, or label attached to, any such article.
- (2) Any person who sells or delivers or exposes or offers for sale any article marked with a grade designation mark, or who uses any covering or label so marked, whether the article, covering or label was so marked by him or by some other person, shall be deemed for the purposes of the last foregoing section to use, in connection with the article marked or in connection with any article which is contained in the covering or to which the label is attached, as the case may be, the grade designation represented by the mark.
- (3) Any person who—
 - (a) forges any grade designation mark; or
 - (b) makes, disposes of, or has in his possession, any die, block, machine, or other instrument, for the purpose of forging a grade designation mark; or
 - (c) uses in connection with any article any mark so nearly resembling a grade designation mark as to be calculated to deceive;shall, unless he proves that he acted without intent to defraud, be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds, or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both imprisonment and fine.
- (4) No person shall mark any article, covering or label with a grade designation mark unless he is authorised to do so by or under regulations made under this Act, and any person who acts in contravention of this subsection shall be liable on summary conviction to a fine not exceeding twenty pounds.

Special provisions as to Eggs

3 Marking of preserved eggs

Subject as hereinafter provided, it shall not, after the twenty-eighth day of February, nineteen hundred and twenty-nine, be lawful to sell or expose for sale any egg which has been subjected to any process of preservation unless the egg is marked in the prescribed manner, and any person who acts in contravention of this section shall be liable on summary conviction in the case of a first offence to a fine not exceeding five pounds, and in the case of a second or subsequent offence to a fine not exceeding twenty pounds:

Provided that the Minister shall by order exempt from the operation of this section eggs preserved by any process with respect to which he is satisfied that the marking of eggs preserved by that process cannot be enforced.

4 Cold and chemical storage of eggs

- (1) Any premises used or intended to be used by way of trade or for purposes of gain for the cold storage or chemical storage of eggs may be registered in the prescribed manner in a register kept by the council of the county or county borough in which the premises are situated, in accordance with regulations made by the Minister under this Act.
- (2) If and so long as any Order in Council made under section two of the Merchandise Marks Act, 1926, is in force prohibiting the sale or the exposure for sale in the United Kingdom of imported eggs unless they bear an indication of origin, the following provisions shall have effect, that is to say :—
 - (a) no premises shall be used by way of trade or for the purposes of gain for the cold storage or chemical storage of eggs, unless the premises are registered premises, and, if any premises are used in contravention of the provisions of this section, the occupier of the premises shall be guilty of an offence under this section :
 - (b) it shall not be lawful to cause British eggs, which have been kept in cold storage or chemical storage in any premises used for such storage of eggs by way of trade or for purposes of gain, to be removed from such premises unless the eggs have been marked in the prescribed manner, and for the purpose of securing the enforcement of this provision the Minister may, by notice in writing served on the occupier of any registered premises, give directions that British eggs which have been kept in cold storage or chemical storage in any part of the premises are not to be removed from such parts of the premises as may be specified in the notice until they have been marked in the prescribed manner, and a copy of any notice so served shall be kept by the occupier conspicuously posted in such parts of the premises as the Minister may direct; if any person contravenes or fails to comply with the provisions of this paragraph or of any directions given thereunder, he shall be guilty of an offence under this section:
 - (c) an officer of the council of any county or county borough, if authorised in that behalf and on production if so required of his authority, may at any time during the hours when the premises are open for business enter any premises in which he has reason to believe that eggs are kept in cold storage or chemical storage, and may search for and inspect eggs in the premises, and may require any person whom he finds in or about the premises to give such information as may reasonably be demanded of him as to any name and address required by the officer for the purposes of enabling him to carry out his duties under this Act, and any person who obstructs an officer so authorised in the execution of the powers conferred on him by this section or wilfully withholds any information which any such officer is empowered by this Act to require of him shall be guilty of an offence under this section :
 - (d) if any person removes, alters or obliterates any mark which, in compliance with the requirements of the foregoing provisions of this section, was borne by any egg at the time when it was stored in any such premises as aforesaid, or sells or exposes for sale any egg from which such a mark has been removed or on which such a mark has been altered or obliterated, he shall, unless he proves that he acted without intent to defraud, be guilty of an offence under this section, and in the case of a second or subsequent offence under this paragraph the court may, in addition to any other penalty, order any eggs in relation to which the offence has been committed to be forfeited:

- (e) any person guilty of an offence under this section shall be liable on summary conviction in the case of a first offence to a fine not exceeding five pounds, and in the case of a second or subsequent offence to a fine not exceeding twenty pounds.

Supplementary

5 Enforcement and expenses

Subject as hereinafter provided, it shall be the duty of the council of every county or county borough to enforce within their county or county borough the provisions of this Act, and for that purpose to appoint such officers as may be necessary, and any expenses incurred by a council under this Act shall be defrayed in the case of a county council as part of their expenses for general county purposes, and in the case of a county borough, out of the borough fund or the borough rate :

Provided that as respects the administrative county of London, the common council of the City of London and the council of every metropolitan borough shall, to the exclusion of any other council, perform and exercise in their respective areas the duties and powers imposed and conferred by this Act on councils of counties and county boroughs, and this Act shall, in its application to the administrative county of London, have effect as if for references therein to an officer of the council of any county or county borough there were substituted references to an officer of the common council or of the council of any metropolitan borough, as the case may be, and any expenses incurred by the common council or by the council of a metropolitan borough under this Act shall be defrayed out of the general rate.

6 Provisions as to regulations and orders

- (1) All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the next subsequent twenty-one days on which that House sat next after the regulations are laid before it presents an Address to His Majesty praying that the regulations or any part of them may be annulled, they shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.
- (2) Any order made or notice served under this Act may be varied or revoked by any subsequent order made or notice served in like manner.
- (3) A copy of any notice served under this Act on the occupier of any registered premises shall be sent to the council whose duty it is to enforce the provisions of this Act as respects those premises.

7 Interpretation

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" Agricultural produce " includes horticultural produce:

" British eggs " means eggs produced in the. United Kingdom :

" Chemical storage " means storage for the purpose of preserving eggs by any process which does not alter the composition of the shells, including storage in any gas, vapour, or gaseous mixture:

" Covering " includes any vessel, box, crate, wrapper, tray, or other container :

" Egg " means an egg laid by a domestic fowl or domestic duck:

" Grade designation " means a grade designation prescribed under this Act:

" Label " includes any band or ticket:

" Minister " means the Minister of Agriculture and Fisheries:

" Prescribed " means prescribed by regulations made by the Minister under this Act:

" Quality," in relation to any articles, includes the state and condition of those articles :

" Registered premises " means premises for the time being registered in manner provided by this Act.

8 Application to Scotland

In the application of this Act to Scotland, references to the Board of Agriculture for Scotland shall be substituted for references to the Minister of Agriculture and Fisheries, references to a town council shall be substituted for references to a council of a county borough, and the expenses of any council shall be defrayed out of such rate as the council may appoint.

9 Saving for other Acts

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other enactment relating to or affecting merchandise marks or the sale of any article with respect to which this Act applies.

10 Short title and extent

(1) This Act may be cited as the Agricultural Produce (Grading and Marking) Act, 1928.

(2) This Act shall not extend to Northern Ireland.