



# Agricultural Produce (Grading and Marking) Amendment Act 1931

## 1931 CHAPTER 40

### **1 Application of the principal Act to fishery produce.**

- (1) The Agricultural Produce (Grading and Marking) Act, 1928 (in this Act referred to as " the principal Act") shall apply to fishery produce as it applies to agricultural produce and accordingly section one of that Act shall have effect as if after the words " agricultural produce " wherever those words occur there were therein inserted the words " or fishery produce. "
- (2) Section eight of the principal Act shall have effect as if for the words " references to the Board of " Agriculture for Scotland shall be substituted for " references to the Minister of Agriculture and " Fisheries" there were therein substituted the words " for references to the Minister of Agriculture and " Fisheries there shall be substituted, as respects agri- " cultural produce, references to the Department " of Agriculture for Scotland, and as respects fishery " produce, references to the Fishery Board for " Scotland."

### **2 Definition of agricultural and fishery produce.**

For the definition of " agricultural produce " contained in section seven of the principal Act there shall be substituted the following definition:—

“" Agricultural produce " and " fishery produce " include respectively all produce of agriculture or horticulture and of the fishing industry, all articles of food or drink wholly or partly manufactured or derived from any such produce as aforesaid, and fleeces and the skins of animals.”

### **3 Removal of doubts as to conditions which maybe attached under s. 2 (1) of the principal Act.**

For the removal of doubts it is hereby declared that the power of the Minister under subsection (1) of section two of the principal Act to make provision for conditions being attached to any authorisation granted under that subsection (which relates to the marking with the 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) shall include and shall be deemed always to have included power to make provision for conditions being attached as to the payment of any expenses incurred by the Minister, or by any person or body of persons authorised under that subsection, in connection with the manufacture or use of any die, block, machine, or other instrument requisite for the purpose of the reproduction of the mark, or with the manufacture or use of any covering or label marked therewith.

#### **4 Protection of grade designation marks.**

- (1) Subject as hereinafter provided, any person who uses, in connection with any article whatsoever, any mark or description of such a character or in such manner as to be calculated, by reason of the resemblance of that mark or description to a grade designation mark or to any prescribed part of a grade designation mark or by reason of that mark or description being or incorporating the words "national mark" or otherwise, to lead to a false belief that the article is an article of a class to which designations indicating quality have been prescribed by regulations made under statutory powers, shall 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:

Provided that—

- (a) if any person proves that any mark or description was used or registered in connection with any article before the seventeenth day of June, nineteen hundred and thirty-one, or was used in connection with any article before the prescription under the principal Act of any grade designation mark or prescribed part of a grade designation mark resembling that mark or description, he shall not be convicted of an offence under this section by reason only of the use of that mark or description in connection with that or similar articles; and
- (b) proceedings for an offence under this section shall not be instituted except by or with the consent of the Minister or by a council whose duty it is, under section five of the principal Act, to enforce the provisions of this Act, or by an officer appointed by the Minister or by such a council as aforesaid and authorised in that behalf by special or general directions given by the Minister or council, so, however, that any such proceedings may be instituted in Scotland by the procurator fiscal.

In this subsection the expression "prescribed part of a grade designation mark" means a mark prescribed by regulations made under the principal Act as a grade designation mark when used in association with a grade designation (whether with or without the addition of any words or letters), and the expression "registered" means registered under the Trade Marks Acts, 1905 to 1919.

- (2) Subsection (3) of section two of the principal Act (which provides, among other things, that a person who uses in connection with any article any mark so nearly resembling a grade designation mark as to be calculated to deceive shall be liable to the punishment therein mentioned but that no person shall be liable for any offence mentioned in that subsection if he proves that he acted without intent to defraud) shall be amended as follows, that is to say—
- (i) for paragraph (c) there shall be substituted the following paragraph—

- “(c) uses in connection with any article whatsoever, any mark of such a character or in such manner as to be calculated, by reason of the resemblance of that mark to a grade designation mark, to deceive”; and
- (ii) for the word " defraud " there shall be substituted the word " deceive. "

**5 Short title, construction and citation.**

This Act may be cited as the Agricultural Produce (Grading and Marking) Amendment Act, 1931, and shall be construed as one with the principal Act and that Act and this Act may be cited together as the Agricultural Produce (Grading and Marking) Acts, 1928 and 1931.