

CHAPTER 319 - Agricultural Produce (Export) Act

Commencement Date: 11/1/1923

An Act of Parliament to provide for the grading and inspection of agricultural produce to be exported, and generally for the better regulation of the preparation and manufacture thereof

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Short title

1. This Act may be cited as the Agricultural Produce (Export) Act.

Interpretation 3 of 1957, s.2.

2. In this Act, except where the context otherwise requires-

" agricultural produce" or "product" means meat or any product thereof, milk products, eggs or margarine or butter substitutes, and further includes any article whatever produced or derived from farming operations which the Minister may from time to time by notice in the Gazette declare to be agricultural produce for the purposes of this Act;

"block-stacking" means the placing together in one or more lots produce of the same kind and grade belonging to any person or persons;

"brand" when used as a verb means to stamp, mark, label or in any other manner distinguish by concrete or visible sign; and when used as a noun has a corresponding meaning;

"Director" means the Director of Agriculture;

"inspector" means a person generally or specifically designated by the Director to examine or grade or both examine and grade agricultural produce intended for export to examine animals the produce whereof is intended for export.

Restriction of export of agricultural produce

3 of 1957, s.3.

3. No person shall export, or cause or permit to be exported, or attempt to export, any agricultural produce for which rules are made unless and until such produce has been inspected, or inspected and branded, in manner prescribed by such rules.

Prohibition of export of unsound produce

4. (1) No person shall export, or cause or permit to be exported, or attempt to export—
(a) the produce of any animal intended for human consumption, which is infected with any disease rendering such produce unfit for such consumption; or
(b) agricultural produce intended for human consumption which at the time of presentation for export is unfit for such consumption; or
(c) agricultural produce which owing to its condition or for any other reason is unlikely to be brought to its destination in a sound or good marketable state.
(2) The question whether any produce is or is not in such a condition as would render it subject to the prohibitions contained in this section shall be determined by the inspector according to the instructions given generally or specifically by the Director.

Seizure and destruction of diseased animals and of agricultural produce intended for export

- 5.(1) Whenever an inspector has ground for believing that any animal is to be slaughtered and that the meat thereof is intended for export, he may, if such animal is found to be so infected with disease as to render the meat unfit for human consumption, cause it to be seized and slaughtered and the carcass thereof dealt with or disposed of as he may determine, but in such a manner that such carcass cannot be used either for human consumption or as food for animals:
Provided that any moneys received from such disposal shall, after deduction of the expenses incidental thereto, be paid to the owner of the carcass.
(2) If any agricultural produce intended for human consumption is found at the time of inspection under this Act or of its presentation for export to be unfit for such consumption, an inspector may cause it to be seized and destroyed or otherwise dealt with or disposed of, but in such manner that such produce cannot be used for human consumption or food for animals:
Provided that any moneys received from such disposal shall, after deduction of the expenses incidental thereto, be paid to the owner of the produce.

Sanction and registration of abattoirs and slaughtering places, dairies, etc.

- 6.(1) No person shall export, or cause or permit to be exported, or attempt to export, any meat or any produce thereof unless the abattoir or slaughtering place used for the slaughter of the animal from which such meat is to be taken is a place sanctioned by the Director as fit for the purpose.
(2) No person shall export, or permit to be exported, or attempt to export, any milk products, compositions or substitutes thereof unless the dairy, factory, creamery or premises where such products, compositions or substitutes are collected, prepared or stored are premises sanctioned by the Director as fit for such purpose.
(3) There shall be allotted to all premises sanctioned under subsection (2) a registration certificate and number, and the holder of the registration certificate for these premises shall have the exclusive right to use that registration number for the purpose of designating the milk products manufactured at such premises.

Withdrawal of sanctions

7. The sanction given by the Director under section 6 may be at any time withdrawn by him if it appears that such premises and places are not being kept in such a condition, or do not possess such appurtenances or facilities, as will enable the person using them to comply with the provisions of this Act.

Powers of entry on premises and inspection

8. For the purposes of this Act, every inspector and any person generally or specially authorized in writing by or on behalf of the Director may at all reasonable times enter any premises in which is kept

or suspected of being kept for export any agricultural produce, or premises in which any animal is kept the produce whereof is intended for export, and may examine any part of such premises or any receptacle or package therein.

Power of minister to prescribe various matters
L.N.509/1959, L.N.172/1960.

9.The Minister may from time to time, by notice in the Gazette—

(a)prescribe the specific designation under which any particular kind of agricultural produce may be exported, and define each such kind of produce;

(b)prescribe the percentage of impurity and the maximum amount of moisture which may be present in different kinds of grain intended for export;

(c)prescribe the standards of composition and fix the maximum percentage of moisture, salt, preservatives or other substitutes in milk products, margarine and butter substitutes intended for export, and prohibit the export of any such article in which the prescribed requirements are not maintained;

(d)prohibit the export of agricultural produce which has been so treated as to give it the appearance of an article of different commercial value.

Rules

G.N1721/1955, L.N.173/1960.

10.(1) The Minister may make rules, not inconsistent with this Act, to provide for the following matters relating to agricultural produce intended for export, namely—

(a)the inspection of animals the produce of which is intended for export, and the inspection of the premises in which animals are slaughtered, or in which produce is prepared, manufactured or otherwise dealt with;

(b)the time and place at which, and the manner in which, notice of intention to export shall be given, the manner of packing, the size, description, quality and material of the receptacles to be used, the weight of the contents and the marking of such weight and of the receptacles;

(c)the time and place at which delivery of the produce shall take place at the port of shipment;

(d)the place and manner of storage (which may include block-stacking), the conveyance and the treatment of any produce;

(e)the inspection of produce, the fixing of grades, the place and manner of inspection and of grading and branding of any produce and the manner in which different designations or grades of produce shall be branded or indicated, whether on the receptacle or on a certificate of the inspector or otherwise;

(f)the percentage which shall be inspected in any one consignment;

(g)the temperature at which conveyance by rail and shipment of the produce shall take place;

(h)the abstraction or removal of samples by an inspector for examination, inspection or analysis;

(i) the circumstances under which different kinds of produce may be accepted or rejected, and degraded, regraded or rebranded, by an inspector after examination and inspection;

(j) the circumstances under which and the conditions on which produce inspected and graded may be withdrawn from shipment;

(k)the forms of notices, certificates and other documents to be used or issued for the purposes of this Act;

(l)the fees which shall be paid by the owner of the consignor of animals or produce for inspection and for grading; and

(m)generally for the better carrying out of the objects and purposes of this Act.

(2) Differing rules may be made under this section to apply to different kinds of agricultural produce.

Provisions as to block-stacking of produce

11.(1) Where produce is delivered to Kenya Railways or the Kenya Ports Authority to be block-stacked it shall be lawful for them to make such charges, rules, regulations and conditions as they may deem fit for the block-stacking of produce by them.

(2) Save as provided by subsections (3), (4) and (5), when produce is block-stacked Kenya Railways or the Kenya Ports Authority shall, after reasonable notice, deliver to the person entitled thereto the same number of bags of produce of the same grade and quality as that person or his assignor has delivered to them to be block-stacked, but it shall not be necessary for them to deliver to any person the identical produce which it received from him or from his assignor.

(3) It shall be lawful for the Ministry of Agriculture to regrade produce before shipment, after it has been receiving block-stack.

(4) When, on regrading, produce is found to have deteriorated, the inspector shall apportion any resultant loss among the persons who have left produce of that grade in block-stack in such proportion as he may consider to be fair and reasonable, having special regard to the period during which an owner has held produce in block-stack as shown by the books of Kenya Railways or the Kenya Ports Authority, and such loss shall be borne by the person or persons to whom it has been apportioned; and the produce so found to have deteriorated may be removed to the place allotted to the storage of produce of the quality to which it has deteriorated :

Provided that, if the regraded produce does not fall within any of the prescribed grades or within any of those classes of produce for which an inspection certificate may be issued, it shall be lawful for the inspector to sell, destroy or otherwise dispose of that produce and apply the net amount realized (if any), firstly, in defraying any charges which may be due to Kenya Railways or the Kenya Ports Authority for storing that produce, and secondly in crediting the balance to the person or persons entitled to credit under subsection (5).

(5) When produce has been removed from a block-stack of one grade to a block-stack of a lower grade, as provided by subsection (3), Kenya Railways or the Kenya Ports Authority shall enter in the stock-book a debit to the person or persons upon whom the loss due to deterioration has fallen of the number of bags of produce standing to his or their credit in the block-stack of the grade in which the deterioration is found to have occurred, and shall credit that person or those persons with an equivalent number of bags of produce in the block-stack to which the deteriorated produce has been removed.

(6) When the procedure prescribed by the last subsection has been complied with, any receipt or certificate issued on the receipt of the produce for block-stacking shall be deemed to be amended accordingly.

(7) Notification as to alteration of grade (if any) on regrading carried out under subsection (3) shall be posted by the inspector to the owner or owners of the produce so regraded as soon as possible on completion of regrading.

Obstruction resistance and hindrance

12(1) Any person who obstructs, resists or hinders an inspector in the lawful exercise of his powers or duties under this Act or any subsidiary legislation made thereunder shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.

(2) Any person who fails, within the time required by an inspector, to remove any produce from any place of inspection, reception or shipment whenever such removal is so required shall be guilty of an offence and liable to a fine not exceeding one hundred shillings for every day during which the offence continues.

Forging certificate or brand and false warranties

13.(1) Any person who forges, or utters knowing it to be forged, any certificate or brand or label, or any writing or signature required by or provided in this Act or any subsidiary legislation made thereunder, shall be guilty of an offence and liable to the penalties prescribed by law for the crime of forgery.

(2) Any person who wilfully applies to agricultural produce intended for export a certificate or invoice or label or warranty given in relation to any other agricultural produce shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months.

(3) Any person who with intent to deceive issues a written warranty or invoice, label or certificate or notification in respect of agricultural produce intended for export shall, if such written documents falsely describe such produce or are false in any other material particular, be guilty of an offence and liable to the penalties prescribed by law for the crime of cheating.

Penalty

14. Any person who contravenes any of the provisions of this Act or of any subsidiary legislation made thereunder, or makes default in complying with any such provision with which it is his duty to comply, shall be guilty of an offence and, if no penalty is specially provided for the contravention or default, be liable, in the case of a first conviction, to a fine not exceeding two thousand shillings, and, in the case of a second or subsequent conviction, to a fine not exceeding five thousand shillings, and in default of payment in either case to imprisonment for a term not exceeding six months.

Board of appeal

15.(1) If any person is aggrieved by any decision of, or action taken by, an inspector under this Act, or under any subsidiary legislation made thereunder, the inspector shall, if required by such person, state in writing the reasons for his decision or action, and the matter shall thereupon be referred to a board, which shall be appointed by the Director or, at his request, by a Provincial Commissioner, Resident Magistrate, or District Commissioner.

(2) The decision of the board in the matter shall be reduced to writing, and shall be final.

(3) Before the matter is referred to the board, the person aggrieved shall deposit with the inspector such a reasonable amount as, in the Director's opinion, will be sufficient to defray the expenses which will necessarily be incurred by the board, but the amount so deposited shall be refunded to such person if his contention is upheld by the board.