

CHAPTER 199

AGRICULTURAL PRODUCE AGENTS (REGISTRATION)

Ordinances
Nos. 28 of 1941,
44 of 1941,
11 of 1945,
48 of 1946.
Act
No. 22 of 1955.

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF THE SALE OF AGRICULTURAL PRODUCE THROUGH AGENTS, FOR THE REGISTRATION AND LICENSING OF AGRICULTURAL PRODUCE AGENTS AND FOR PURPOSES INCIDENTAL TO THE MATTERS AFORESAID

[11th August, 1941.]

Short title.

1. This Ordinance may be cited as the Agricultural Produce Agents (Registration) Ordinance.

REGULATION OF BUSINESS OF AGRICULTURAL PRODUCE AGENTS, &C.

Prohibition against carrying on business as agricultural produce agent in specified areas without licence.

2. (1) On and after such date * as the Governor may appoint by Proclamation published in the Gazette, no person shall, in any area specified in such Proclamation-

- (u) carry on or exercise the business of an agricultural produce agent ;
- (6) in any way advertise or notify that he carries on or exercises, or proposes to carry on or exercise, such business in any such area ;
- (c.) do any act which leads to the belief or supposition that he carries on or exercises such business in any such area,

except under the authority of a licence issued under this Ordinance.

(2) The date appointed by any Proclamation under subsection (1) shall be a date not earlier than two months after the date on which that Proclamation is published in the Gazette.

(3) Where a licence under this Ordinance is issued to any person who carries on business as an agricultural produce agent in any area specified in any Proclamation under subsection (1), that licence shall, while it remains in force, be sufficient authority to that person to carry

on such business in any other area or areas which may have been or may be specified in that Proclamation or any other Proclamation under that subsection.

(4) Where the business of an agricultural produce agent is carried on by a firm registered under the Business Names Ordinance, a licence issued in the name of the firm shall be sufficient authority to each member of the firm to carry on business as an agricultural produce agent on behalf of the firm.

(5) In any prosecution against any person for a breach of any provision of subsection (1) that person shall, unless he produces the licence authorizing him to carry on business as an agricultural produce agent, or adduces other satisfactory proof of his having been so licensed, at the time when the offence charged against him was alleged to have been committed, be presumed to have not been so licensed at that time.

3. Where any agricultural produce has been consigned or delivered to any licensed agent for sale on behalf of the owner of such produce-

Restriction of purchases of produce by licensed agents, &c.

- (a) such agent shall not, directly or indirectly, whether by himself or through any other person, purchase such produce, except with the written consent, previously obtained, of the owner of such produce or of some duly authorized person on behalf of such owner ;
- (b) such agent shall not, in any case where he purchases any such

* 1st July, 1944, appointed by Proclamation published in Gazette No. 9,264 of 28th April, 1944.

produce with the written consent required under paragraph (a), charge to the seller in respect of the sale any fee, charge, or commission whatsoever ;

(c) no person in the employment of such agent shall, directly or indirectly, whether by himself or through any other person, purchase any such produce, except with the written consent, previously obtained of the owner of such produce or of some duly authorized person on behalf of such owner ;

(d) no person whether he is or is not in the employment of such agent, shall in any way aid or abet such agent to commit a breach of any provision of paragraph (a).

Destruction of produce.

4. (1) No licensed agent shall, by himself or through any agent or servant, destroy or cast away or cause to be destroyed or cast away any agricultural produce which is in a marketable condition.

(2) In any prosecution against any person for destroying or casting away any agricultural produce, it shall be a sufficient defence to prove-

(u) that the destruction or casting away did not raise or tend to raise the price at which agricultural produce similar to the produce so destroyed or cast away, was available to the public ; or

(6) that the produce was destroyed or cast away on the orders of any public officer, or of any officer of a local authority, duly authorized under any written or other law to give such orders.

Fees, charges, &c., of licensed agents.

5. Notwithstanding anything in any written or other law, no licensed agent shall be entitled to receive, or to sue for or recover in any court from any person on whose behalf he sells any agricultural produce, in respect of such sale, any fee, charge, commission, reward or other remuneration in excess of such fees, charges,

commission, reward or other remuneration as may be prescribed.

6. (1) No person shall purchase any agricultural produce from the person by whom or on whose behalf it was actually produced, unless at the time of the purchase or at the time of the delivery of such produce, whichever time is earlier, the price to be paid for such produce has been definitely fixed and agreed to by the seller at a sum certain, and which sum is not to be ascertained subsequently, whether by reference to any other transaction or otherwise.

All purchases of produce to be for definite sums.

(2) The provisions of subsection (1) shall not have effect until a date * to be appointed by the Governor by Proclamation published in the Gazette.

SECURITY TO BE FURNISHED BY AGRICULTURAL PRODUCE AGENTS

7. (1) The Registrar or an Assistant Registrar may at any time require any licensed agent to furnish, before a specified date, security in a specified amount to the satisfaction of the Registrar or Assistant Registrar, as the case may be, for the due compliance by such agent with the provisions of this Ordinance and the regulations made thereunder. It shall be the duty of every licensed agent, who is required under the preceding provisions of this subsection to furnish security before a specified date, to furnish such security before that date.

Security to be furnished by licensed agents.

(2) The security required to be provided by any licensed agent shall be given-

(a) by the deposit and hypothecation of money ; or

(6) by the hypothecation of immovable property ; or

(c) in such other manner as may be prescribed.

(3) The security provided by any licensed agent shall be liable to be forfeited in whole or in part in such circumstances as may be prescribed, for the purpose of indemnifying

* 1st July, 1944, appointed by Proclamation published in Gazette No. 9,264 of 28th April, 1944.

all persons for whom such agent acts or has acted in his capacity as such agent, in respect of any loss or damage caused by any breach by such agent of any provision of this Ordinance or of any regulation made thereunder ; and where such agent is a firm, the security provided by such agent shall be liable to be forfeited as aforesaid for the purpose of indemnifying all persons for whom any member of the firm acts or has acted in the capacity of an agricultural produce agent in respect of any loss or damage caused by any breach by any member of the firm of any provision of this Ordinance or of any regulation made thereunder.

(4) Regulations may be made-

(a) prescribing the amount, not exceeding one thousand five hundred rupees, in which security shall be given by licensed agents or any class of such agents or any such agents carrying on business in any specified district or area, and the circumstances in which and the conditions and restrictions subject to which the amount so prescribed may be increased or reduced in any individual case at the discretion of the Registrar ;

(6) prescribing the form of document to be executed by licensed agents or by any class of such agents who furnished security ;

(c) providing for any matter incidental or supplemental to the furnishing of security under this Ordinance.

(5) Any person aggrieved by an order of the Registrar or an Assistant Registrar under subsection (1) to furnish security may appeal against such order to the Minister ; and the decision of the Minister on any such appeal shall be final and conclusive. Every such appeal shall be preferred within such time and in such manner as may be prescribed in the case of appeals to the Minister under section 28.

BANK ACCOUNTS, BOOKS, REGISTERS, &c., OF AGRICULTURAL PRODUCE AGENTS

8. (1) The Registrar or an Assistant Registrar may at any time require any licensed agent to open in an approved bank before a specified date, in the name of such agent, an account, to be called the " Agricultural Produce Account ". It shall be the duty of every licensed agent, who is required under the preceding provisions of this subsection to open an agricultural produce account before a specified date, to open such account before that date and to furnish to the Registrar, within fourteen days of the opening of such account, a return in the prescribed form containing the prescribed particulars.

* Agricultural Produce Accounts " in banks.

(2) Within fourteen days of the occurrence of any circumstance affecting the accuracy of any particulars furnished by any licensed agent in any return under subsection (1), such agent shall inform the Registrar in writing of such circumstance and shall furnish an amended return.

(3) In this section, " approved bank " means a bank approved by the Minister by regulation.

9. Every sum of money received by any licensed agent who has been required to open an agricultural produce account in respect of the sale of any agricultural produce of any person (over and above any sum advanced by such agent to that person) shall, forthwith upon the receipt of such sum, be paid by such agent into his agricultural produce account.

Payments into agricultural produce accounts.

10. No sum of money paid into the agricultural produce account of any licensed agent, in respect of the sale of any agricultural produce of any person, and no part of any such sum, shall be paid out in satisfaction or part satisfaction of any debt due by that agent to any creditor of his other than the person on whose behalf such sale was carried out ; and, notwithstanding anything in the Civil Procedure Code or any other written law, no such sum or part thereof shall be liable to be seized in execution of any decree entered by any court in respect of any debt due by that agent to any creditor other than the person on whose behalf such sale was carried out.

Money paid into agricultural produce account not to be available for satisfaction of other debts of agent.

Withdrawals from agricultural produce accounts.

11. No licensed agent shall withdraw from his agricultural produce account for his own use any sums other than such as may be necessary to cover the following :-

- (1) the expenses, commission and other prescribed charges of or incidental to the sale or disposal of any agricultural produce by such agent in his capacity as an agricultural produce agent ;
- (2) any sums which may be due, owing and payable to such agent by any person on whose behalf such sale or disposal was carried out.

Moneys received by licensed agents who have not been required to open agricultural produce accounts.

12. Where any licensed agent who has not been required to open an agricultural produce account under section 8 receives any money in respect of the sale of any agricultural produce of any person, such agent shall not appropriate for his own use any part of that money other than such sums as may be necessary to cover the following :

- (a) the expenses, commission and other prescribed charges of or incidental to the sale or disposal of such produce by such agent in his capacity as an agricultural produce agent ;
- (b) any sums which may be due, owing and payable to such agent by the person on whose behalf such sale or disposal was carried out.

Rendering of account and payment of money to principal.

13. Where any agricultural produce of any person has been sold by a licensed agent on behalf of that person, such agent shall, before the expiration of thirty days from the date of the sale, render to that person a full and accurate statement of account relating to the sale and pay to that person the amount due to him in respect of the sale.

Fraudulent rendering of accounts.

14. Every licensed agent who fraudulently renders any false account of the sale or disposal by him of any agricultural produce, or of any money received by him in connexion with such sale or disposal, or of the application of any such money, knowing such account to be false in any material particular, shall be guilty of an

offence and shall on conviction be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

15. (1) Every licensed agent shall keep—

Records, books, &c., to be kept by licensed agent.

- (a) a record in the prescribed form setting out the prescribed particulars of all transactions entered into by him relating to the sale or disposal of agricultural produce ;
- (b) such books, accounts and registers relating to his business as an agricultural produce agent as may be prescribed.

(2) Every entry made in any record, book, account or register under subsection (1), kept by any licensed agent or belonging to such agent or found on any premises in his occupation or under his control, shall be deemed, until the contrary is proved, to have been made by or with the authority of such agent.

16. (1) The Registrar or any Assistant Registrar or any person authorized in that behalf in writing-by the Registrar or any Assistant Registrar may, at any time

Inspection of books, registers, accounts, &c.

- (a) inspect, or call upon any licensed agent to produce within a specified time, any pass book or statement of account relating to the agricultural produce account of such agent, issued to him by the bank in which such account is kept ;
- (b) inspect, or call upon any licensed agent to produce within a specified time, any record, book, account, register or document which is in the possession or under the control of such agent and which relates to his business as such agent ;
- (c) make any notes from, or take any copy of, the whole or any portion of any book, account, record or document, the inspection of which is authorized by this section ;

(d) question any licensed agent or any employee or servant of such agent in relation to any book, account, record or document the inspection of which is authorized by this section.

(2) It shall be the duty of every licensed agent and of every employee or servant of such agent to furnish such facilities as may be required by the Registrar, Assistant Registrar or person authorized under subsection (1) for the purposes of the exercise of any power conferred by that subsection and to answer truthfully all questions put to such agent, employee or servant in the exercise of any such power.

Preservation of bank pass books, records, registers, &c.

17. Except with the permission of the Registrar, previously obtained, no licensed agent shall destroy, or permit or cause to be destroyed, any bank pass book or statement of account relating to his agricultural produce account, or any record, book, account or register which he is required to keep under section 15, until the expiration of not less than twelve months from the end of the year during which the last entry in any such bank pass book or statement of account or in any such record, book, account or register was made.

Power of Registrar to obtain returns information, &c.

18. (1) The Registrar or any Assistant Registrar may at any time call upon any licensed agent to furnish him before a specified date-

- (a) a return in the prescribed form containing the prescribed particulars relating to the business of such agent ;
- (b) any oral or written information relating to the business of such agent as the Registrar or Assistant Registrar may consider necessary ;
- (c) any oral or written explanation relating to any return or information furnished by such agent under paragraph (a) or paragraph (b) as the Registrar or Assistant Registrar may require.

(2) It shall be the duty of every licensed agent who has been called upon under

subsection (1) to furnish any return, information or explanation before a specified date, to make such return or to supply such information truthfully and accurately and before the date specified.

OFFENCES

19. (1) Every person who does any act in contravention of any provision of section 2 shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one thousand rupees.

Penalty for breaches of the Ordinance or any regulation.

(2) Every licensed agent or other person who does any act in contravention of any provision of this Ordinance (other than section 2 or section 14) or of any regulation, or who fails to comply with any requirement of this Ordinance or of any regulation, shall be guilty of an offence and shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding seven hundred and fifty rupees.

20. (1) Any court before which a licensed agent is convicted of a breach of any provision of paragraph (a) of section 3, may, in addition to any fine imposed for the offence, order the offender to pay to the owner of the produce purchased in breach of the said paragraph (a), such sum as in the opinion of the court fairly represents the profit resulting to the offender by reason of such breach.

Court may order additional sum to be paid by offender against section 3 (a).

(2) Any sum which the court orders an offender to pay under subsection (1) shall be recovered in the same manner as a fine imposed by the court.

21. Any court before which any person is convicted of an offence against this Ordinance may, if satisfied that any other person has sustained loss or damage by reason of the commission of the offence, award to such other person by way of compensation such part of any fine imposed by the court as the court thinks fit.

Part of fine may be awarded by court to any person suffering loss or damage.

22. (1) Where any licensed agent is convicted before any court of-

Court may order cancellation of licence.

- (a) an offence against this Ordinance, or

- (b) any crime within the meaning of the Prevention of Crimes Ordinance and is, on conviction of such crime sentenced to imprisonment,

the court may make order that the licence issued to such agent be cancelled

(2) Where the court which makes an order under subsection (1) for the cancellation of a licence is the High Court, Magistrate's Court or Primary Court, the court shall communicate such order to the Registrar -

- (a) if no appeal is filed in the case within the period allowed for the filing of such appeals under the Code of Criminal Procedure Act, forthwith upon the expiration of such period ;
- (6) if an appeal is filed in the case, forthwith upon the receipt by the original court of the order of the Court of Appeal confirming the order of cancellation of the licence.

Offence by company.

23. Where an offence against this Ordinance is committed by a corporation or company, or by a firm registered under the Business Names Ordinance, every director, and the manager, secretary, or other principal officer (by whatever name called) in Sri Lanka of that corporation or company, or, as the case may be, every partner in Sri Lanka of that firm, shall also be guilty of such offence, unless the person charged proves that the offence was committed without his knowledge or connivance and without any negligence on his part.

LICENCES

No licence to be issued to persons under twenty-one.

24. No person who is under the age of twenty-one years shall be licensed as an agricultural produce agent under this Ordinance.

Validity of licences.

25. Every licence issued to an agricultural produce agent shall come into force on the day specified in that behalf in such licence and shall, subject to prior cancellation under the provisions of this Ordinance, be valid and continue in force

until and including the thirty-first day of December next following the day so specified.

26. Every application for a licence to carry on business as an agricultural produce agent shall be in the prescribed form and shall

Applications for licences.

- (a) state the full name, age and sex of the applicant and, where the application is for the renewal of an existing licence, the number and other particulars of such licence ;
- (b) contain such particulars, relating to the nature of the business carried on or proposed to be carried on by the applicant and his principal and other places of business, as may be prescribed ;
- (c) specify in which of the modes mentioned in section 7 the applicant proposes to provide security if he is required to furnish security under that section ;
- (d) where the principal place of business of the applicant is situated within the administrative district of Colombo, be transmitted to the Registrar, and, where such place of business is situated in an administrative district other than Colombo, to the Assistant Registrar of such other district ;
- (e) where the application is for the renewal of an existing licence, be so transmitted not less than two months before the date on which such existing licence is due to expire ; and
- (f) be accompanied by the prescribed fee.

27. The Registrar or Assistant Registrar, on being satisfied that any applicant for a licence as an agricultural produce agent is a fit and proper person to be the holder of such a licence, shall register the applicant as an agricultural produce agent and shall issue to him a licence in the prescribed form.

Issue of licences.

Refusal of licence and appeal therefrom.

28. (1) Where the Registrar or an Assistant Registrar refuses to issue an agricultural produce agent's licence to any applicant, he shall communicate such refusal to the applicant in such manner as may be prescribed.

(2) Any person aggrieved by any refusal under subsection (1) may appeal against such refusal to the Minister and the Minister may, on any such appeal, make order confirming such refusal or directing the Registrar or Assistant Registrar, as the case may be, to issue a licence to the applicant, and may give such other directions in the matter as he may deem necessary.

(3) Where the Minister makes order under subsection (2) that a licence be issued to the applicant, the Registrar or Assistant Registrar shall, subject to any directions of the Minister, register the applicant as an agricultural produce agent and issue to him a licence.

(4) Regulations may be made prescribing the time within which appeals under this section shall be preferred to the Minister and generally in respect of all matters incidental to or connected with the hearing or disposal of such appeals.

Assistant Registrar to report issue of licence to Registrar.

29. Where an agricultural produce agent's licence is issued by an Assistant Registrar, he shall forthwith report to the Registrar the fact that such licence has been issued, together with full particulars relating to such licence and the person to whom it has been issued ; and the Registrar shall enter the prescribed particulars relating to the issue of such licence in the register kept by him under this Ordinance.

Registers of licensed agents.

30. The Registrar and every Assistant Registrar shall keep a register of licensed agents in the prescribed form.

Cancellation of licences on order of court.

31. Where any order made by any court under section 22 that the licence issued to any agricultural produce agent be cancelled is communicated to the Registrar, the Registrar shall forthwith cancel such licence and make or cause to be made such alterations as may be necessary in any register of agricultural produce agents kept by him or by any Assistant Registrar under this Ordinance.

32. Regulations may be made prescribing the circumstances, other than the circumstances referred to in section 22, in which licences issued under this Ordinance may be cancelled. Cancellation of licences in other circumstances

MISCELLANEOUS

33. It shall be the duty of every licensed agent— Duties of licensed agent in relation to principal place of business.

(a) within seven days of changing the location of his principal place of business to inform the Registrar of such change by notice in writing, giving full particulars of his new principal place of business, and, if his licence was issued to him by any Assistant Registrar, to furnish a notice in the same terms to that Assistant Registrar within the aforesaid period ; and

(6) at all times to keep exhibited at his principal place of business a board or sign setting out, clearly and legibly in Sinhala, Tamil and English, his name and the words " Licensed Agricultural Produce Agent ".

34. All notices, documents or communications required by or under this Ordinance to be sent or given to or served upon any licensed agent shall be deemed to have been duly sent, given or served if left at the principal place of business of such agent or sent by post addressed to such agent at his principal place of business ; and every notice, document or communication so sent by post shall be deemed to have been served at the time at which it would have been received in the ordinary course of post. Service of notices.

In proving such service by post it shall be sufficient to prove that the notice or other document, or the letter containing it, was duly addressed and posted.

35. Subject to the provisions of sections 10, 20 and 21, nothing in this Ordinance shall affect any civil remedy any person may have against any licensed agent in respect of any matter. Civil remedies not affected.

Expansion of definition of " agricultural produce ".

36. The Minister may by notification in the Gazette declare that any article or class of articles specified in such notification shall be deemed, for all the purposes of this Ordinance, to be included in the definition of " agricultural produce " in section 39.

Appointment of Registrar, &c.

37. (1) There may be appointed—

- (a) any person, by name or by office, to be or to act as Registrar of Agricultural Produce Agents ;
- (b) any person, by name or by office, to be or to act as Assistant Registrar of Agricultural Produce Agents for any administrative district ;
- (c) such other officers and servants as may be necessary for the purposes of this Ordinance.

(2) Where no appointment is made under paragraph (b) of subsection (1) in respect of any administrative district, the Government Agent of such district shall be deemed to be the duly appointed Assistant Registrar of such district.

REGULATIONS

Regulations.

38. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of any or all of the following matters :-

- (4) all matters stated or required by this Ordinance to be prescribed ;
- (6) all matters for which regulations are required or authorized by this Ordinance to be made ;
- (c) the exemption from the payment of a fee for an agricultural produce agent's licence in particular cases, and the conditions and restrictions subject to which such exemption may be granted ;

- (d) the form and particulars of accounts to be rendered by licensed agents under section 13 ;
- (e) the exemption, in the discretion of the Registrar, of any licensed agent or any class of such agents, from the liability to keep any particular records, books, registers or accounts required by this Ordinance, and the conditions subject to which such discretion shall be exercised ;
- (f) the inspection, by the person on whose behalf any agricultural produce has been sold by any licensed agent, of any record, book, account or register of such agent relating to any transaction between such person and such agent, and the conditions and restrictions subject to which such inspection and the taking of any copy of such record, book, account or register shall be permitted ;
- (g) the furnishing of returns and of statistics relating to agricultural produce or the sale thereof by persons, whether agricultural produce agents or not ;
- (h) the regulation of the sale on credit by a licensed agent of any produce consigned or delivered to him for sale ;
- (i) the issue and circulation throughout Sri Lanka or any part thereof of official market reports relating to agricultural produce, and of lists of licences issued under this Ordinance and of cancellations of such licences ;
- (j) the registration of any matters for the registration of which no special provision is made in this Ordinance ;
- (k) all matters incidental to or connected with the matters or subjects specifically referred to in the foregoing provisions of this subsection.

(3) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation made by the Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister when approved by Parliament shall, upon notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

Interpretation.

39. In this Ordinance, unless the context otherwise requires-

" agricultural produce " means any unmanufactured agricultural, horticultural or animal produce of Sri Lanka and includes flour manufactured from any produce of Sri Lanka, live or dead poultry, game and eggs and also any other article or class of articles in respect of which a notification under section 36 has been issued, but does not include green tea leaf or rubber latex ;

" agricultural 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, carries on or exercises the business, or advertises or notifies that he carries on the business, of selling agricultural produce or of a broker or factor of agricultural produce ; but does not include any person employed merely in the capacity of a clerk or servant, or any banking company, or any person, being a licensed auctioneer, conducting a sale of the vendor's own agricultural produce on the vendor's property ;

" Assistant Registrar " means an Assistant Registrar of Agricultural Produce Agents under this Ordinance ;

" licensed agent " means a person licensed under this Ordinance to carry on business as an agricultural produce agent ;

" principal place of business " when used with reference to any licensed agent, means the place specified as such by that agent in his application for a licence under section 27, or, if that agent has sent to the Registrar one or more notices under section 33, the place specified as such in the most recent of such notices ;

" Registrar " means the Registrar of Agricultural Produce Agents under this Ordinance.

40. (1) Nothing in the preceding provisions of this Ordinance shall be deemed to prohibit or restrict the sale of any agricultural produce by any co-operative society on behalf of any member of such society, and no such society shall be deemed to carry on or exercise the business of an agricultural produce agent by reason only of the fact that any agricultural produce of any member of such society is sold on behalf of that member by such society.

Application of Ordinance to sale of produce by co-operative societies on behalf of members.

(2) Regulations may be made providing that, for the purposes of the application of any provision of this Ordinance in any case where an agricultural produce is sold by a co-operative society on behalf of any member of such society, any reference in that provision to the owner of any agricultural produce or to the person by whom any such produce is produced shall be deemed to be or to include a reference to the co-operative society by which the produce is sold.

(3) In this section, "co-operative society " means a co-operative society registered or deemed to be registered under the Co-operative Societies Law.