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EXTRAORDINARY.

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DRAFT ORDINANCES.

MINUTE.

The following Draft of a proposed Ordinance is published for general information :—

L. D.—O 23/39

An Ordinance to provide for the grading and marking of agricultural produce and of certain articles of food or drink, and for purposes connected with the matters aforesaid.

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

1 This Ordinance may be cited as the Agricultural Produce (Grading and Marking) Ordinance, No. of 1939.

Short title.

2 (1) The Executive Committee of Agriculture and Lands may make regulations—

Regulations prescribing grade designations and marks, &c.

(a) prescribing such designations (hereinafter referred to as "grade designations") as the Committee may consider appropriate to indicate the quality of any scheduled article, and defining the quality indicated by each designation so prescribed ;

(b) specifying appropriate marks (hereinafter referred to as "grade designation marks") to represent particular grade designations ;

- (c) prescribing the officers by whom, and the conditions upon which, certificates may be granted authorising the marking with a grade designation mark of any article in respect of which such mark has been prescribed, or of any covering which contains, or label which is attached to, any such article ;
- (d) prescribing the form of certificates granted under this Ordinance and the fees or scales of fees payable therefor ;
- (e) specifying the grounds upon which a prescribed officer may refuse to grant a certificate under this Ordinance, and providing for appeals to the Minister from such refusals and for the fees to be paid upon such appeals ;
- (f) providing for the recovery, from persons to whom certificates are granted under this Ordinance, of any expenses incurred in connexion with the manufacture or use of any die, block, machine or other instrument requisite for the purpose of the reproduction of any grade designation mark, or in connexion with the manufacture or use of any covering or label marked with a grade designation mark ;
- (g) specifying the mode of marking articles with grade designation marks, the manner in which such articles shall be packed, the type of covering or label to be used, and the quantity of such articles to be included in each such covering ;
- (h) amending the Schedule to this Ordinance by the addition thereto of any article of agricultural produce ;
- (i) providing for the detention and disposal of articles ordered to be forfeited to His Majesty under this Ordinance ;
- (j) providing for any matters incidental to or connected with the matters specifically referred to in this sub-section.

(2) No regulation shall have effect unless it is approved by the State Council and ratified by the Governor. Notification of such approval and ratification shall be published in the Gazette.

(3) Every regulation shall on the publication of the approval and ratification of that regulation under sub-section (2) be as valid and effectual as if it were herein enacted.

Prohibition of unauthorised use of grade designation marks, and issue of certificates.

3 (1) No person shall, except under the authority of a certificate in that behalf granted by a prescribed officer under this Ordinance, mark with a grade designation mark any scheduled article, or any covering which contains, or label which is attached to, any such article.

(2) Every certificate granted under this Ordinance shall be in the prescribed form and shall be subject to such conditions as may be prescribed.

(3) A prescribed officer may, upon such grounds as may be specified by regulation, refuse to grant a certificate under this Ordinance to any person. An appeal shall lie to the Minister from such refusal, and the decision of the Minister on any such appeal shall be final and conclusive.

Penalty for contravention of Ordinance or regulations.

4 (1) Any person who acts in contravention of the provisions of section 3 (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(2) Any person who, being the holder of a certificate granted under this Ordinance, contravenes any condition attached to the certificate, or acts in contravention of any provision of any regulation, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees ; and the court which convicts such person may, in addition to any other punishment which it may impose for the offence, make order cancelling the certificate granted to him.

Penalty for forgery of marks and for manufacture, &c. of instruments for forging marks.

5 Any person who—

- (a) forges or counterfeits any grade designation mark ;
or
- (b) uses, sells, offers for sale, disposes of, or has in his possession, any grade designation mark, knowing or having reason to believe the same to be forged or counterfeited ; or

- (c) makes any die, block, machine or other instrument for the purpose of forging or counterfeiting a grade designation mark ; or
- (d) uses, sells, offers for sale, disposes of, or has in his possession, any die, block, machine or instrument, knowing or having reason to believe the same to be intended for the purpose of forging or counterfeiting any grade designation mark ; or
- (e) uses in connection with any article whatsoever any mark of such a character or in such manner as to be calculated by reason of its resemblance to a grade designation mark, to deceive

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.

6 The court which convicts any person of any offence under this Ordinance relating to the marking of any article with a grade designation mark may make order declaring that the article shall be forfeited to His Majesty.

Forfeiture
of articles.

7 In this Ordinance, unless the context otherwise requires—

Interpretation.

- “ agricultural produce ” includes all produce of agriculture or horticulture, all articles of food or drink wholly or partly manufactured or derived from any such produce, and fleeces and skins of animals ;
- “ covering ” includes any vessel, box, crate, wrapper, tray, or other container ;
- “ egg ” means an egg laid by a domestic fowl or a domestic duck ;
- “ label ” includes a band or ticket ;
- “ Minister ” means the Minister for Agriculture and Lands ;
- “ prescribed ” means prescribed by regulation ;
- “ quality ”, when used with reference to any article, includes the state and condition of the article ;
- “ regulation ” means a regulation made under section 2 ;
- “ scheduled article ” means any article for the time being specified in the Schedule to this Ordinance.

8 The provisions of this Ordinance shall be in addition to and not in substitution or derogation of the provisions of any other written law relating to or affecting merchandise marks or the sale of any scheduled article.

Savings.

SCHEDULE.

1. Fruit.
2. Vegetables.
3. Tobacco.
4. Coffee.
5. Eggs.
6. Dairy produce.
7. Hides and skins.

Objects and Reasons.

The object of this Bill, which is based on the provisions of the Agricultural Produce (Grading and Marking) Act, 1928, of the Imperial Parliament and on similar legislation in India, is to enable producers or vendors of the articles mentioned in the Schedule to the Bill to mark such articles with prescribed grade designation marks indicative of the quality of the articles sold.

It is intended that the Bill should apply, in the first instance, to the articles specified in the Schedule ; but power will be taken to add to the Schedule any article of agricultural produce not mentioned therein.

2. The Executive Committee of Agriculture and Lands will be empowered under Clause 2 to make regulations prescribing grade designations for any scheduled article, defining the quality indicated by each such designation and specifying appropriate marks to represent the grade designations.

Where grade designations are prescribed in respect of any scheduled article, certificates will be granted to approved persons authorising them to mark any such articles with the prescribed marks; the manner in which articles are to be marked and other details as to the packing of such articles will be prescribed by regulation.

Regulations may also be made providing for the recovery, from the holders of certificates, of expenses incurred in connexion with the manufacture or use of any die or other such instrument necessary for the reproduction of grade designation marks or for the manufacture or use of coverings or labels bearing such marks.

3. Any person who, except under the authority of a certificate granted under the Ordinance, marks with a prescribed grade designation mark any scheduled article, or any covering which contains, or label which is attached to, any such article, will be guilty of an offence.

D. S. SENANAYAKE,
Minister for Agriculture and Lands.

Colombo, October 25, 1939.