

THE AGRICULTURAL PRODUCE ACT

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SCHEDULES

THE AGRICULTURAL PRODUCE ACT

Cap. 7.
Acts
31 of 1995
S. 4,
23 of 2004.

[1st August, 1926.]

1. This Act may be cited as the Agricultural Produce Act.

Short title.

Interpretation

2. In this Act—

Interpreta-
tion.

“agricultural produce” shall mean any of the kinds of produce mentioned in the First or Fourth Schedule or any of the kinds of livestock or fish mentioned in the Fifth Schedule;

First
Schedule.
Fourth
Schedule.
Fifth
Schedule.
23/2004
S. 2(a).

“agricultural warden” means a person appointed as such under the Praedial Larceny (Prevention) Act;

“cacao” means cacao beans, whether in the pod or pulp, or separated, and whether cured or uncured, ripe or unripe;

“carrier” means any person who by himself, or by his servant or agent, conveys in a vehicle along a public road any specially protected produce but shall not include—

- (a) a person who by himself or by his servant or agent conveys in his own vehicle any such produce owned by such person; or
- (b) a person who conveys in a vehicle any such produce for sale for local consumption in Jamaica;

“carrying on a trade or business” means any purchase or sale for the purpose of trade in produce although such purchase or sale occurs on one occasion only;

“coffee” means coffee beans, whether in the cherry or pulp, or separated from the pulp, and whether cured or uncured, ripe or unripe;

“coconut” means green or water coconuts, and ripe or dry coconuts in shell or peeled, also the kernel and copra;

“consignor” means the owner or shipper, whether jointly or severally of agricultural produce, and includes any person authorized by such owner or shipper to ship agricultural produce. It also includes, in the case of a company, the managing director, manager, secretary or other principal officer of the company in the Island;

“contract” means any agreement, arrangement or understanding, whether oral or in writing, and whether for a fixed or indeterminate period, whereby any person engages to sell or deliver specially protected produce to an exporter, or to any other person who buys or receives the same for delivery or sale to an exporter:

Provided that the expression shall not include transactions in relation to specially protected produce for local consumption or for any local manufacture nor shall it include any casual sale or delivery to a produce dealer at licensed premises;

“dealer” means any person holding a current licence under this Act;

“exporter” means any person, firm or company carrying on the business of exporting from the Island specially protected produce;

“fruit” means bananas and citrus fruit and any fruit which the Minister may declare to be fruit for the purposes of this Act;

“inspected” means inspected under the provisions of this Act;

“Inspector” means Inspector of Agricultural Produce;

“licensed vehicle” means a vehicle in respect of which a licence is granted under section 17;

“nutmegs” means nutmegs, whether in the pod or separated from the pod, whether cured or uncured, ripe or unripe, and mace;

“place” means any place where any produce mentioned in the First or Fourth Schedule, or any fish or livestock mentioned in the Fifth Schedule, is grown, stored, reared, bought or sold;

First
Schedule.
Fourth
Schedule.
Fifth
Schedule.
22 2004
S 2 (c).

“premises” shall include any house, shop, depot, wharf, portion of a wharf, building, room or enclosed place approved by an officer appointed for the purpose by the Minister as a place for the purchase or sale of agricultural produce and any enclosed land appurtenant thereto, or used or occupied therewith;

“prescribed” means prescribed by orders of the Minister or by regulations;

First
Schedule.

“specially protected produce” means agricultural produce of any of the kinds specified in Class No. 2 of the First Schedule;

“unmarketable fruit” means fruit in such a bruised, damaged, poor or immature condition in the opinion of the Inspector at the time of inspection as not to be fit for shipment and to be prejudicial to the agricultural interests of the Island if shipped;

“vehicle” means a mechanically propelled vehicle.

Registration

Registration.
23/2004
S. 3

2A.—(1) Every person carrying on the trade or business of growing or rearing agricultural produce shall become registered with the Rural Agricultural Development Authority.

(2) The Minister may make regulations prescribing the procedure for registration under subsection (1), the imposition of fees in relation thereto and any other matter connected therewith.

Licences

Licences.

3.—(1) Every person carrying on the trade or business of buying or selling, or of buying or exporting agricultural produce shall be required to take out a licence under this Act for each premises in which he intends to carry on such trade or business.

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S. 4.

(2) A person may apply for a traveller’s licence if that person—

(a) carries on the trade or business of buying and selling, or of buying and exporting, agricultural produce; and

- (b) desires to buy any agricultural produce at any place other than on the premises for which that person holds a licence to buy or export agricultural produce.

(3) A traveller's licence entitles the holder, his agent or servant so authorized, to purchase in any parish in the Island, on the premises of the grower or producer or by written or electronic form of communication—

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S. 4.

- (a) any agricultural produce mentioned in the Fourth Schedule or in any of the classes of produce mentioned in the First Schedule; or

Fourth
Schedule.

First
Schedule.

- (b) any fish or livestock mentioned in the Fifth Schedule.

First
Schedule.

(4) This section shall not apply to—

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S. 4.

- (a) the sale or export of agricultural produce grown on premises owned by a grower of agricultural produce and sold by that grower; or

- (b) a person who buys agricultural produce for domestic use.

4.—(1) Any person desiring a licence of any class mentioned in the First Schedule, or a traveller's licence, shall, before the sitting of the Resident Magistrate's Court of the parish wherein the premises in respect of which the application is made are situated and, in the case of a traveller's licence, of the parish wherein the applicant resides and at which his application is to be considered, deposit with the Collector of Taxes of the parish, in the case of a licence for Class 1, 2 or 3 of the First Schedule, the sum of two hundred and fifty dollars and in the case of a

Application
for licence.
First
Schedule.

31/1995
S. 4.

traveller's licence, the sum of five hundred dollars. The Collector shall give a receipt for the amount so deposited, which receipt shall be produced for inspection at the sitting of the Resident Magistrate's Court.

(2) Each applicant shall cause to be delivered to the Clerk of the Courts an application in writing for the licence, stating his name and residence in full, the class of licence desired, and the particular premises for which the same is desired; and each person intending to apply for a licence under this Act shall, ten days at least before the sitting of the Resident Magistrate's Court at which his application is to be considered, give notice in writing of such intention to the Chief Officer of Constabulary of the parish in which his application is to be made, and shall set forth in such notice—

- (a) his name, address and occupation;
- (b) the situation of the premises in which he proposes to buy or sell agricultural produce and the class of produce he desires to deal in;
- (c) whether he intends to deal in wet or dry produce or both;
- (d) whether his application is for an original licence or for the renewal of a licence;
- (e) that there is not any unsatisfied judgment against him in any Court of Judicature of this Island for misapplying, or not accounting for moneys entrusted to him for the purpose of enabling him to purchase agricultural produce;

- (f) whether he has previously been refused a licence for any premises in the Island;

- (g) a recommendation in writing from a Justice of the parish, or from a member of the Parish Council, a minister of religion, or a householder paying direct taxes to the amount of ten dollars yearly.

The Chief Officer of Constabulary shall make such enquiries as he may deem necessary, and shall endorse on each notice the result of his enquiries into the character of the applicant, and the correctness of the statements in the said notice, and shall forward such notice so endorsed, together with a certificate from the Inspector, which must be furnished by the applicant, that the applicant has a sufficient and suitable place for the storing, grading, and packing of produce, to the Clerk to be laid before the Resident Magistrate's Court at the sitting of the Court at which the application is to be considered and in every case in which his report is unfavourable to an applicant, the Chief Officer of Constabulary shall, if required by the Resident Magistrate, attend and afford such information on oath as may be required of him.

(3) In the case of an application to deal in wet produce, each applicant shall forward together with his application to the Clerk of the Courts a certificate from the Inspector that he has made suitable arrangements for the curing of wet produce.

(4) Each applicant shall also cause to be delivered to the Collector of Taxes of the parish along with the deposit required by subsection (1) a certificate signed by the Chief Officer of Constabulary or a Justice of the parish in which the application is made that the applicant is able to read and write the English language and to keep the book required to be kept by a licensed produce dealer.

(5) Notwithstanding the provisions of subsection (2) a licensed produce dealer may have his licence renewed from year to year on his giving notice to the Chief Officer of Constabulary for the parish of his intention to apply for such renewal and on the payment of the fees provided for such licences in section 4 (1) to the Collector of Taxes of his parish, and on his forwarding together with his application, to the Clerk of the Courts, in the case of a licence of Class No. 1, the certificate of the Inspector under subsection (3) where the applicant intends to deal in wet produce, and in the case of a licence of Class No. 2, the certificate of the Inspector prescribed by subsection (9) and also the certificate of the Inspector prescribed by subsection (7) where the applicant intends to buy citrus fruit. If, however, the Chief Officer of Constabulary or Chief Inspector or an Inspector satisfies the Resident Magistrate that the person claiming to have his licence renewed ought not to be licensed, the Resident Magistrate may refuse to renew such licence.

First
Schedule.

(6) A licence of Class No. 1 in the First Schedule shall not authorize the selling or buying of any agricultural produce which is uncured or wet or in the skin, pod, cherry or husk—

- (a) unless the applicant for the licence has satisfied the Resident Magistrate by the production of a certificate from an Inspector that he has suitable facilities for the curing of the said produce, which in the case of cocoa shall consist of proper means of drying by artificial heat, sliding trays or hand trays, and in the case of coffee, proper equipment including pulpers, fermenting tanks, an adequate water supply, and facilities for drying; and
- (b) the Resident Magistrate has noted on the licence that he is so satisfied.

(7) A licence of Class No. 2 in the First Schedule shall not authorize the buying of any citrus fruit unless the applicant for the licence has satisfied the Resident Magistrate, by the production of a certificate from an Inspector, that he has a sufficient and suitable storehouse for the storing, grading and packing of such produce, and the Resident Magistrate has noted on the licence that he is so satisfied. First
Schedule.

(8) A traveller's licence shall not authorize the purchasing, otherwise than on premises duly licensed under this Act, of any agricultural produce of Class No. 1 in the First Schedule hereto, which is uncured or wet, or in the skin, pod, cherry or husk.

(9) Notwithstanding anything in this Act contained a licence of Class No. 2 of the First Schedule shall not be

granted or renewed unless the applicant for the licence satisfies the Resident Magistrate by the production of a certificate from an Inspector that the premises in respect of which application is made are not situated so near to the bank of any river, stream or watercourse as to conduce to the spread of Panama Disease.

Resident
Magistrate to
deal with
application.

5. The Resident Magistrate shall openly hear, consider and deal with, all such applications presented as aforesaid. In every case in which the Resident Magistrate shall grant the application, the Clerk shall when the licence is confined to the premises in which the dealer carries on his business, issue a licence in accordance with Form A in the Second Schedule and in any case in which the applicant applies for a traveller's licence, issue a licence in accordance with the Form B in the Second Schedule:

Second
Schedule.

Provided always, that any person who has been or shall be convicted of larceny or embezzlement, or receiving stolen property knowing it to have been stolen, or of any offence under any enactment for the time being in force relating to praedial larceny or any offence against any enactment for the time being in force relating to obeh, or who knowingly employs under his licence any person who has been convicted of any of the above offences, shall forfeit his licence, and be precluded for three years from obtaining or holding a licence under this Act.

Refusal of
licence.

6. In every case in which an application for a licence under this Act is refused, the Clerk shall give the applicant a certificate in writing of such refusal.

Power of
Resident
Magistrate to
suspend or
revoke
licence.

7. A licence under this Act may at any time be suspend or revoked by the Resident Magistrate if after giving the holder thereof an opportunity of being heard the Chief Officer of Constabulary, or the Chief Inspector or an

Inspector satisfies the Resident Magistrate that the holder of the licence is not a fit person to hold such a licence.

8.—(1) Every Clerk who shall issue any licence under this Act shall forthwith notify the same to the Chief Inspector and to the Chief Officer of Constabulary of the parish, and shall cause the name and address of the person licensed to be published in the *Gazette*. Clerk to notify Police and Chief Inspector of issue of licence.

(2) The production of a copy of the *Gazette* containing any such notification, shall be *prima facie* proof that the person whose name appears therein is duly licensed under this Act for the current year.

(3) The Chief Officer of Constabulary shall cause to be posted up at each Court House, and at each police station in his parish, a list of all persons licensed under this Act in such parish, showing the class of licence that has been granted, and the place at which the licensee is authorized to trade.

9. Subject to the provisions of section 7 every licence which shall be granted under this Act shall commence on the 1st day of April in each year and shall, unless previously forfeited, expire on the 31st day of March in the immediately succeeding year : Duration of licence.

Provided that one moiety of the annual duty for a produce dealer's licence may be paid half-yearly in advance on the 1st day of April and on the 1st day of October in each year.

10. Every licensed produce dealer shall affix and keep affixed on some conspicuous place at the entrance of the premises specified in his licence, a board whereon shall be legibly painted in white letters and figures not less than three inches in height, his name in full, the number and class of his licence, and the words "Licensed to deal in Notice board to be affixed to premises.

Agricultural Produce", and the year in which the licence is issued, and such board shall not be exhibited after the expiration of the licence.

Produce
Book to be
kept.

11.—(1) Every licensed produce dealer shall keep a book wherein he shall record in the English language at the time of purchase of any agricultural produce the date of such purchase, the description of such produce, the weight, number, grade according to the number of hands or quantity of such produce, the price paid for the same, the name and address of the person from whom he or anyone on his behalf actually received such produce, the name and address of the owner of such produce, and where the receipt is of bananas, coconuts or citrus fruit, the place where and the person by whom such produce was grown or produced; and such book shall be open at all reasonable hours to inspection by any Justice, or any constable, or any person authorized under any enactment for the time being in force relating to prædial larceny, or an Inspector, who may take possession of such book for purposes of evidence or record:

Provided that no person making such inspection as aforesaid shall communicate to any other person the information so obtained except—

- (a) for the purpose of providing any evidence or information in relation to, and for the detection of, any offence, or suspected offence under this Act or any other enactment;
- (b) for any other purpose connected with the administration of Justice:

Provided further that such inspection may be made, and such information so obtained may be communicated, either before or after any proceedings in relation to any offence or suspected offence have been commenced.

(2) Any person who communicates any information obtained under this section in contravention of the provisions of this section shall be guilty of an offence.

(3) The person making such inspection shall note in such book, the date of his inspection and shall sign his name to such noting.

(4) Every person delivering any agricultural produce to a produce dealer shall furnish to such produce dealer his full name and address and the name and address of the owner or each of the owners of the produce delivered, and where the delivery is of bananas, coconuts or citrus fruit, the name of the place or places where and the person or persons by whom the produce was grown or produced.

(5) In all proceedings in any Court of Justice the book to be kept under the provisions of this section and all entries therein shall be *prima facie* evidence of the matters therein recorded.

12.—(1) Any licensed produce dealer may personally, or by any person in his employment, purchase and sell agricultural produce on the premises specified in his licence. Purchases of produce to be made on premises

(2) A licence to purchase and sell agricultural produce shall be in accordance with Form A in the Second Schedule, where the licence is confined to the parish in which the dealer carries on his business, and shall be transferable from place to place within the parish, subject to the approval of the Resident Magistrate, and shall be transferable from person to person, on the conditions to be complied with by the transferee, required in the case of the issue of a new licence under this Act. On the transfer of such licence, the transferee shall pay to the Collector of Taxes for the parish in which the licence is granted the sum of two dollars. Second Schedule

First
Schedule.

(3) A separate licence shall be necessary for each separate class of produce, as set out in the First Schedule and for each separate set of premises used by a licensed produce dealer for the purchase or sale of agricultural produce:

Provided nevertheless, that one or more licences, for different classes of produce, may be used on the same premises:

Provided further that a *bona fide* holder of a traveller's licence, when purchasing agricultural produce other than at his licensed premises shall be entitled to purchase any of the classes of produce set out in the First Schedule by reason of such licence.

Second
Schedule.

(4) Where the licence to purchase produce is a traveller's licence, such licence shall be in accordance with Form B in the Second Schedule, and shall be transferable within any parish in this Island.

Production of
licence for
inspection.

13. Any Inspector, Justice, or constable may at any time require a dealer or any person acting as his agent to produce for inspection the licence of such dealer.

Receipt to be
issued to
purchaser.
23/2004
S. 5.

14.—(1) Subject to subsection (4) no person shall carry, on any water highway or public road, any agricultural produce unless such produce is accompanied by a receipt in accordance with subsection (2).

(2) The receipt mentioned in subsection (1) shall be—

(a) in accordance with Form C of the Second Schedule; and

(b) issued by—

(i) if the person purchases the produce, the vendor of the produce;

(ii) in any other case, the grower of the produce.

(3) Where a receipt is issued under this section to a licensed produce dealer—

- (a) such dealer shall keep the receipt along with the book mentioned in section 11 (produce book) for a period not being less than six months from the date of such receipt; and
- (b) such receipt shall be deemed to form part of such book and all the provisions of this Act relating to such book shall apply to every such receipt.

(4) This section shall not apply to a person who carries agricultural produce other than for purposes of trade or business.

15.—(1) Every person who is required to issue a receipt under section 14 (2) may apply for the receipt book mentioned in subsection (2) at any office of the Jamaica Agricultural Society situated in—

Issue of receipt books. 23/2004 S. 5.

- (a) the parish in which the person resides; or
- (b) if the person is a licensed produce dealer, the parish in which he carries on business or in which his licence is issued.

(2) The receipt book shall consist of a book of printed forms in accordance with Form C of the Second Schedule, with the leaves numbered consecutively in triplicate with printed numbers thereon and in which the second and third copies shall be impressions produced by means of carbon paper.

Second Schedule.

(3) The Minister may make regulations prescribing the procedure for the application for, and supply of, receipt books and the imposition of any fees in relation thereto.

Record and Returns of Deliveries of Specially Protected Produce

16.—(1) Every exporter, or produce dealer, who enters into a contract shall, within seven days after the making of any such contract, complete the form of certificate in Form D in the Second Schedule and shall sign and transmit the same to the Deputy Keeper of the Records who shall file the same in a book

Contracts relating to specially protected produce to be recorded and returns of deliveries made.

to be kept for the purpose and such book shall be open to the public free of cost.

(2) Every exporter, or produce dealer shall, during the currency of such contract, at the end of each quarter of every year, transmit to the Deputy Keeper of the Records a statement in writing specifying the nature and quantity of the specially protected produce sold or delivered to the exporter, or to any other person for sale or delivery to the exporter under such contract, and the Deputy Keeper of the Records shall deal with such statement as he deals with a certificate under this section.

(3) This section shall not apply to Banana Contracts.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Carriers; Licensed Vehicles

Carrier's
licence.

17.—(1) Every carrier shall apply for and obtain a carrier's licence.

(2) Application for a carrier's licence shall be made in writing to the Collector of Taxes for the parish in which the vehicle is kept for use on any public road and shall contain—

- (a) the name and address of the applicant;
- (b) a description of the vehicle intended to be used to convey specially protected produce with the registered number thereof; and
- (c) a declaration that the applicant is able to read and to write and to keep the book required to be kept by a carrier.

(3) The Collector of Taxes shall, on being satisfied of the accuracy of the particulars contained in the application, grant the licence.

(4) The licence shall entitle the carrier by himself, his agent or servant, to convey along any public road in

the vehicle specified in the licence specially protected produce, and shall be in the form in Form E in the Second Schedule.

Second
Schedule.

(5) Any person, other than a person referred to in paragraphs (a) or (b) of the definition of carrier in section 2, who conveys in a vehicle any specially protected produce along a public road without being licensed in that behalf, or who, being licensed in that behalf, contravenes any of the terms of the licence, shall be guilty of an offence.

18.—(1) Subject to the provisions of this section, a carrier shall not use any vehicle for the conveyance of specially protected produce along a public road other than the vehicle specified in a current licence issued to him under this Act.

Use by
carrier of
vehicles to
convey
specially
protected
produce.

(2) The Collector of Taxes for the parish in which the carrier's licence is issued may on written application by the carrier, made at any time during the currency of the licence, grant to the carrier a permit in writing to substitute the licensed vehicle by a vehicle specified in such permit.

(3) Where a licensed vehicle is undergoing repairs, or is, by reason of damage thereto or mechanical failure thereof, unfit to convey specially protected produce, it shall be lawful for the carrier to use any other vehicle in substitution for the licensed vehicle :

Provided that the vehicle substituted for the licensed vehicle may not be used for a period longer than fourteen days except under a permit granted under subsection (2).

(4) Where the applicant requests in writing the Collector of Taxes to grant a permit enabling the applicant to use another vehicle from time to time during the currency of the licence, the Collector of Taxes shall grant the permit,

and shall in such permit, specify the other vehicle in respect of which the permit is granted.

(5) Any carrier who uses any vehicle in contravention of any of the provisions of this section shall be guilty of an offence.

Identifica-
tion of
vehicles.

19.—(1) Every vehicle used by virtue of a licence under section 17 shall have affixed on the right, or off, side thereof the words "Licensed for carriage" and next thereto the number of the licence of the carrier. The letters and number shall be at least three inches in height and shall be legibly painted in white on a dark ground.

(2) Any carrier who uses any vehicle in contravention of any of the provisions of this section shall be guilty of an offence.

Book to be
kept in
vehicle
when in
use.

20.—(1) The driver, operator or person in charge of a licensed vehicle shall keep on, or in, such vehicle when in use a book wherein he shall record in the English language, at the time when he receives in such vehicle any specially protected produce, the name and address of each person from whom he, or any one on his behalf received such specially protected produce, the description of such produce, the number or quantity thereof, and in the case of bananas, the grade thereof according to the number of hands, and the name and address of the owner of such produce and the place where, and the person by whom, such produce was grown or produced.

(2) Every such book shall be open to inspection by a Justice, or any constable, or any person authorized under any enactment for the time being in force relating to prædial larceny, or any Inspector, and such book when not in use on, or in, the vehicle shall be kept by the carrier under whose licence the vehicle is used.

(3) Every person authorized under this section to inspect such book shall, on inspection thereof, note therein the date of his inspection and shall sign his name to such noting, and any person inspecting such book who communicates to any other person the information so obtained, except in the like circumstances and for the like purposes as information obtained from a produce dealer's book under section 11 may be communicated under that section, shall be guilty of an offence.

21.—(1) Every driver, operator or person in charge of a licensed vehicle who fails to keep the book as required by section 20 or to produce the same for inspection when lawfully required so to do, shall be guilty of an offence.

Failure of driver to keep book in vehicle an offence and offences by carrier.

(2) Every carrier shall be guilty of an offence—

- (a) if he fails to produce the book required to be kept by this Act for inspection when lawfully required so to do;
- (b) if any vehicle used by him is found in use without the book required to be kept by this Act being on or in such vehicle;
- (c) if the book required to be kept by this Act does not contain an accurate record of any matter required to be recorded therein;
- (d) if the person in charge of the licensed vehicle is unable to keep the book as required by this Act.

Possession of Specially Protected Produce by Unlicensed Persons

22.—(1) Whenever any person—

- (a) not having a traveller's licence under this Act, selects any specially protected produce; or
- (b) carries on a trade or business of buying or selling any specially protected produce or is, or has been

Selectors and unlicensed persons to account for possession of specially protected produce.

in possession of any specially protected produce without having a current licence under this Act, it shall be lawful for any constable, or person authorized under any enactment for the time being in force relating to prædial larceny, or any Inspector, to request such person to account to him by what means such person came by such specially protected produce, and, if any such person shall refuse or fail to comply with such request, or shall give an account which is false in any particular, he shall be guilty of an offence:

Provided that the provisions of this section shall not apply to a grower of specially protected produce selling such produce grown upon his own property or to a person buying such produce for local consumption in Jamaica.

(2) For the purposes of this section a person selects specially protected produce who receives, checks or chooses, on behalf of a licensed dealer, or for the purpose of delivery to a licensed dealer, any such produce otherwise than on premises licensed under this Act or on a vehicle licensed thereunder.

Powers of the Minister

Minister's
powers.

23. It shall be lawful for the Minister from time to time—

First
Schedule.

(a) by order, to remove any of the articles of agricultural produce from the First Schedule, or from one class of the said First Schedule to another, and also in like manner to add any other article or articles of agricultural produce to any class in the said Schedule, and thereupon this Act shall take effect with regard to such articles respectively, as if they had been originally omitted or included in the said Schedule;

Third
Schedule.
Fourth
Schedule.

(b) by order, to prescribe that any person packing any kind of agricultural produce specified in the Third and Fourth Schedules (save and except bananas),

to be designated in such order, for exportation for the purposes of trade from this Island, in any closed package, or bag or container, and any person exporting such produce for the purposes of trade, shall respectively register for the purposes of this Act, one trade mark under the provisions of any enactment for the time being in force relating to trade marks, and shall mark every package or bag or container of any such produce packed or exported by him, with a representation of such trade mark, in a plain and conspicuous manner, with the words "Registered Trade Mark" immediately above the same; and to prohibit the exportation of any such produce not so marked :

Provided, that any packer or exporter who has already registered under any such enactment more than one trade mark, shall, if he so pleases by written notice to the Registrar-General, select one of such trade marks as the trade mark required by this Act :

Provided also, that if the same person packs and exports, he shall register one trade mark for all such produce as aforesaid, packed and exported by him :

Provided also, that nothing herein contained shall prevent any packer or exporter as aforesaid, from registering and at his pleasure using other trade marks, in addition to one trade mark so registered as aforesaid, the use of which by such packer or exporter in respect of such produce as aforesaid, is made compulsory :

Provided also, that the words "person packing any kind of agricultural produce" as used in this subsection, shall not include or apply to any work-

[The inclusion of this page is authorized by L.N. 480/1973]

man, or servant employed by and working under and in accordance with the directions of a person who has a trade mark registered, as a packer, as required by this subsection, or under any order made in pursuance thereof, and who shall be responsible for, and shall mark every package packed by such workman, or servant, with a representation of his employer's trade mark, as required by this subsection;

Fourth
Schedule.

- (c) by order, to add to or remove from the Fourth Schedule any article of agricultural produce intended to be exported from this Island and thereupon this Act shall take effect with regard to such articles respectively as if they had originally been added to or omitted from the said Schedule;
- (d) to make regulations prescribing the necessary forms for books or records, which dealers and agents are required to keep under this Act, or any rules made thereunder;
- (e) to make such regulations modifying or dispensing with any of the requirements of this Act with respect to any application for so doing, or as may be found necessary to give full effect to the provisions of this Act;
- (f) to make regulations prescribing or altering the fees payable for the registration of trade marks to be placed on packages of produce exported;
- (g) to make regulations with respect to the inspection, grading, classification and marking of any article of agricultural produce, specified in the Fourth Schedule, intended to be exported from this Island;
- (h) to make regulations prescribing the forms of certificates of inspection, grading, classification

Fourth
Schedule.

and marking of any articles of agricultural produce specified in the Fourth Schedule intended to be exported from this Island;

Fourth
Schedule.

- (i) to make regulations prescribing the manner or method of packing to be adopted in the case of any article of agricultural produce specified in the Fourth Schedule intended to be exported from this Island;
- (j) to make regulations prohibiting or governing the buying, selling or exportation of unmarketable fruit;
- (k) to make regulations prohibiting or governing the buying, selling or exportation of any agricultural produce specified in Classes 1 and 2 of the First Schedule and in the Fourth Schedule;
- (l) to make regulations for the registration of consignors of any agricultural produce specified in the Fourth Schedule intended to be exported from this Island;
- (m) to make regulations prescribing the forms, marks, stamps, brands, labels, tags and containers to be used in connection with the export of agricultural produce specified in the Fourth Schedule;
- (n) to make regulations prescribing the powers and duties of Inspectors to be appointed under this Act;
- (o) to make regulations for the exercise of any power or authority under this Act;
- (p) to make regulations prescribing the fees to be paid for inspection, grading, classification or marking of all or any article of agricultural produce specified in the Fourth Schedule;

First
Schedule.

- (q) to make regulations prescribing the class of buildings where produce is to be purchased or graded or stored;
- (r) to make regulations as he may think necessary requiring shipping companies carrying produce from the Island to notify the dates of the sailing of their ships carrying away any produce specified in Classes 1 and 2 of the First Schedule and in the Fourth Schedule, the names of the ships, the ports at which such ships are to be loaded, and the countries to which such ships are to be consigned;
- (s) to make regulations as to the standard measure or size of any box, bag, or container to be used in the purchase of cocoa, coffee or citrus fruit or other produce;
- (t) to make regulations prescribing penalties pecuniary or otherwise for any offence against any regulations;
- (u) by order, to add to, or remove from, the Fifth Schedule any article of livestock or fish;
- (v) to vary, by order subject to affirmative resolution, the amount of any penalty imposed under this Act;
- (w) to make regulations generally for carrying into effect the objects of this Act.

First
Schedule.
Fourth
Schedule.

23/2004
S. 6
Fifth
Schedule.
23/2004
S. 6.

Minister may
alter or revoke
orders and
regulations.

24.—(1) The Minister may from time to time alter or revoke any order or regulation made by him.

(2) Every order and regulation made by the Minister shall have effect as if it had been enacted by this Act.

(3) Every order and regulation made by the Minister shall be published in the *Gazette* and a copy of the *Gazette* containing such a notice shall be evidence of the order or regulation, as if the notice were the order or regulation.

(4) The validity or effect of an order or regulation made by the Minister shall not be affected by reason of a defect or irregularity in any publication thereof.

Appointment of Inspectors

25. It shall be lawful for the Governor-General from time to time to appoint Inspectors of Agricultural Produce, who shall hold office during pleasure, and shall perform such duties as may from time to time be assigned to them under this Act, or any order or regulation made thereunder.

Appointment of Inspectors.

Miscellaneous

26. It shall be lawful for the Minister or for any such person as the Minister shall empower from time to time to appoint storehouses or places where the work of inspection, classification, grading and marking of any article of agricultural produce, mentioned in the Fourth Schedule and intended for export from this Island is to be carried out.

Places for inspection, classification, etc., of produce intended for export. Fourth Schedule.

27. An Inspector may at any time between the hours of 6 a.m. and 6 p.m. enter any premises or place for the purpose of carrying into execution the provisions of this Act.

Power of Inspector to enter premises.

28. Any person guilty of an offence under sections 16 to 22 shall, on summary conviction before the Resident Magistrate for the parish in which the same shall be committed, be liable to a penalty not exceeding two hundred and fifty thousand dollars.

Penalties. 23/2004 S. 7.

29.—(1) Any Inspector acting in execution of the provisions made under this Act, or any order or regulation made thereunder, may at any time without notice enter any licensed premises for the purpose of inspecting any agricultural produce and the building where such produce

Powers of Inspectors.

Fourth
Schedule.

is stored, and require any person having any agricultural produce mentioned in the Fourth Schedule intended for exportation to produce the same for inspection, classification, grading or marking or to permit the same to be inspected, classified, graded or marked; and if such Inspector has reason to believe that any person has such agricultural produce, though he states he has none, or if he has reason to believe that he has other agricultural produce mentioned in the Fourth Schedule, than that which he has produced or exhibited for inspection, classification, grading and marking, then such Inspector may enter any place, vessel or boat or vehicle at any time of the day or night and examine, search and inspect, classify, grade and mark the same or any part thereof.

(2) It shall be lawful for an Inspector to condemn any agricultural product under this Act which in his opinion is in such a condition as to be absolutely unfit for exportation and to forbid the exportation of the same and he may further order the seizure and destruction of the same. Such seizure and destruction shall be carried out under his superintendence by a constable:

Provided nevertheless that in the case of bananas he may, at his discretion, cut or order the seller or purchaser to cut the stems of fruit unfit for exportation.

Second
Schedule.

(3) An Inspector may detain for reconditioning any agricultural produce under this Act which in his opinion is in such a condition as to be unfit for exportation or local use. Notice of such detention in accordance with Form F in the Second Schedule shall be given as soon as may be to the dealer or exporter in possession of the agricultural produce at the time of detention.

(4) Where any agricultural produce has been detained under subsection (3) the Inspector may release it or any part of it either for exportation or for local use if such agricultural produce has been reconditioned to his

satisfaction, or he may release it for destruction if in his opinion such agricultural produce is absolutely unfit for exportation or local use. When the Inspector releases any agricultural produce under the provisions of this subsection he shall issue a form of release in accordance with Form G in the Second Schedule.

Second
Schedule.

30. It shall be lawful for the Minister to nominate a Board composed of such persons as he shall appoint, with power to add to their number, or to determine the appointment of any such person on such Board, and to replace such person by any other person as he thinks fit, for the purpose of advising him in regard to matters connected with this Act. The Minister shall not, however, be bound to take the advice of the Board if or when given.

Advisory
Board.

31. Where under this Act or any regulation made thereunder, power or authority is given to an Inspector to decide any matter or to make any order in regard to any provisions in this Act or any regulation made thereunder, the decision or order given or made by such Inspector shall be final.

Inspector's
decision
final.

32. In any proceedings taken under this Act, the burden of proving that he is duly licensed or that he is the agent of a licensed produce dealer shall lie on the person accused; and if proof be given of the delivery to any person of any of the articles of agricultural produce mentioned in the Schedules hereto, such proof of delivery shall be *prima facie* evidence of the sale to him thereof.

*Onus
probandi.*

33. [Repealed by Act 23 of 2004.]

Duty of
Registrar.

34. The Registrar-General shall duly publish in the *Gazette*, all notices received by him of the selection by any packer or exporter, of one of those marks already registered by him, to be thenceforth his one trade mark, under the provisions of this Act.

Expenses and
salaries
payable out of
the Treasury.

35. All expenses incurred in carrying out the provisions of this Act, in addition to the salaries of any Inspectors appointed under it, shall be paid out of the Treasury by warrant in the usual manner.

Offences

Offences.

36. Any person who—

- (a) save as hereinbefore excepted, carries on a trade or business of buying or selling, or of buying or exporting agricultural produce without having taken out a licence under this Act;
- (b) for the purpose of trading in the same, purchases or, except from his own licensed conveyances, takes delivery of agricultural produce, except that included in Class No. 2 of the First Schedule—
 - (i) at any time, other than between the hours of six in the morning and one hour after sunset on weekdays; or
 - (ii) on Sundays or Public Holidays;
- (c) wilfully makes any false statement in the notice required to be given to the Chief Officer of Constabulary;
- (d) being a licensed produce dealer, or the agent of such produce dealer, exports or attempts to export coffee that has not been properly dried by means of mats, trays, barbecues or artificial heat;

First
Schedule.

- (e) having obtained a licence of Class No. 1 in the First Schedule causes agricultural produce to be offered for sale or sold uncured or wet or in the skin, pod, cherry or husk, or fails to maintain during the continuance of the licence such suitable arrangements for the curing of the said produce, as have been certified by an Inspector;
- (f) adulterates in any manner any agricultural produce, for the purpose of improving the colour or adding weight thereto or for any other purpose liable to deceive a purchaser;
- (g) being a licensed produce dealer fails to exhibit and keep exhibited at all times the board required to be exhibited under this Act in some conspicuous place at the entrance of the premises specified in the licence;
- (h) being a licensed produce dealer fails to exhibit at all times in some conspicuous place on the premises specified in the licence a copy of this Act, and any enactment amending the same;
- (i) being a licensed produce dealer neglects to keep or negligently or improperly keeps a book which book shall have the headings and numbers of the pages thereof printed thereon and wherein he records in the English language, at the time of purchase of any agricultural produce, the date of such purchase, the description of such produce, the weight, number, grade according to the number of hands, or quantity of such produce, the price paid for the same, the name and address of the person from whom he or anyone on his behalf received such produce, the name and address of the owner of such produce, and where the receipt is of bananas, coconuts or citrus or other fruit,

the place where and the person by whom such produce was grown or produced;

- (j) being a licensed produce dealer, or any person in the employment of a dealer, whether licensed or otherwise, purchases agricultural produce from any person whom he knows or whom, from appearance, the Resident Magistrate determines he ought to have known to be under the age of fifteen years;
- (k) being a licensed produce dealer, or person purchasing agricultural produce on behalf of such a dealer, wilfully destroys or mutilates any such book as is mentioned in subsection (9), or wilfully makes or concurs in making any false entry in any such book or omits or alters or concurs in omitting or altering any of the entries therein as required by this Act;
- (l) in selling or delivering agricultural produce to a produce dealer gives a false name and address, or fails to give correctly the particulars required by subsection (4) of section 11;
- (m) being a licensed produce dealer, or the agent of such a dealer, refuses or neglects, without reasonable excuse to the satisfaction of the Resident Magistrate, to produce his licence for inspection when required to do so under this Act;
- (n) being the vendor of any agricultural produce, fails to issue to any purchaser the receipt required by section 14;
- (o) when carrying any agriculture produce along any water highway or public road, fails, without satisfactory excuse, to produce the receipt required by section 14, on being requested to do so by an Inspector, constable or agricultural warden;

23/2004
S. 9(a).

23/2004
S. 9(a).

(p) carries any agricultural produce along any water highway or public road without the receipt required under section 14; 23/2004
S. 9(a).

(q) [*Deleted by Act 23 of 2004.*]

(r) being a dealer or agent fails or refuses to keep with accuracy any book or record prescribed under this Act;

(s) purchases agricultural produce without a licence and fails to satisfy the Resident Magistrate that he purchased with no intention to deal in such produce, as defined by this Act;

(t) commits a breach of or fails to comply with any order or regulation made under the authority of this Act;

(u) refuses to an Inspector admission to any premises, place, vessel, boat or vehicle, as provided under this Act, or obstructs or impedes any such Inspector in the execution of his duty, or assists in such obstruction or impeding;

23/2004
S. 9(c).

(v) negligently or fraudulently gives a false certificate, receipt or recommendation under this Act;

(w) whenever any order has been made by the Minister under paragraph (b) of section 23, and such prohibition ordered, packs for exportation or exports and package of produce not marked as provided in such order;

(x) disposes of any agricultural produce which has been detained under subsection (3) of section 29 otherwise than in accordance with the form of release issued by the Inspector under subsection (4) of section 29,

shall be guilty of an offence against this Act.

Summary
trial.

37. All offences against this Act, save as otherwise provided, shall be tried in a summary manner before the Resident Magistrate for the parish in which the same shall be committed, and unless otherwise provided, shall subject the offender to a fine not exceeding two hundred and fifty thousand dollars, and in default of payment, to imprisonment, with or without hard labour, for a period not exceeding three months where the penalty exceeds fifty thousand dollars, and not exceeding one month in all other cases:

23/2004
S. 10(a).

23/2004
S. 10(b).

Provided, however, that in the case of a breach of any provision or offence under this Act committed by an officer, employee, servant or agent of a corporation, any fine imposed under this section shall in the first instance be recovered by seizure and sale of the goods and chattels of the corporation and for want of sufficient goods and chattels such officer, employee, servant or agent shall be liable to the imprisonment in this section mentioned in default of the payment of the fine inflicted.

38. A person aggrieved by—

Appeals.
23/2004
S. 11.

- (a) any decision of the Rural Agricultural Development Authority to refuse registration under section 2A; or
- (b) any refusal of the Jamaica Agricultural Society to issue a receipt book under section 15 (1),

may, within fourteen days after the date on which the decision was received by him, appeal against such decision to the Appeal Tribunal appointed by the Minister in accordance with the provisions of the Sixth Schedule.

Sixth
Schedule.

AGRICULTURAL PRODUCE

FIRST SCHEDULE

Class No. 1

(Sections 3, 4, 12, 14, 15, 23)

- | | |
|----------------|--|
| Annatto | Honey |
| Cacao | Rice in the husk commonly known as paddy or dahn |
| Coffee | |
| Ginger | |
| Kola or Bissie | Sarsaparilla |
| Nutmegs | Wax |
| Orange Oil | Tobacco |
| Pimento | Turmeric |

L.N. 485/1969

Class No. 2

L.N. 12/1973.

Bananas, oranges, shaddock, grape fruit, and other citrus fruit, and coconuts. Avocado pears and tangerines.

Class No. 3

Dyewoods and other economic woods and the roots thereof.

SECOND SCHEDULE

(Sections 5, 12)

FORM A

THE AGRICULTURAL PRODUCE ACT

No. Parish of

This is to certify that at a sitting of the Resident Magistrate's Court for the parish of , held at

on the day of 19 , A. B. of

was licensed to purchase and sell agricultural produce of Class No. of the First Schedule to this Act at (insert name or number of premises, street and town or such other description sufficient to identify the premises), under and in accordance with the provisions of this Act.

This Licence expires on the day of 19

Clerk of the Courts for the

parish of

AGRICULTURAL PRODUCE

FORM B
THE AGRICULTURAL PRODUCE ACT
Traveller's Licence

(Sections 5, 12)

No. _____ Parish of _____
This is to certify that at a sitting of the Resident Magistrate's Court for the parish of _____, held at _____, on the _____ day of _____, A. B. of _____ was licensed to purchase agricultural produce of any of the Classes in the First Schedule to the above Act, in any parish in the Island, under and in accordance with the provisions of the above Act.

This Licence expires on the _____ day of _____ 19 _____

.....
Clerk of the Courts for the:
parish of

FORM C (Sections 14 and 15) 23/2004
Produce Receipt S. 12.



JAMAICA AGRICULTURAL SOCIETY PRODUCE
RECEIPT



Receipt # _____ Farmer Reg. # _____
Received from _____
The sum of _____ Dollars \$ _____
Address of purchaser _____
Name of owner of produce _____
Name of property on which produce was grown _____
Description of produce _____
Quantity of produce _____
Weight _____
Place of destination of produce _____ Date _____
Name of owner of vehicle _____ Licence # of vehicle _____
Signature or witnessed mark of person or persons selling the produce _____

[The inclusion of this page is authorized by L.N. 111/2005]

AGRICULTURAL PRODUCE

(Section 16(1))

FORM D

THE AGRICULTURAL PRODUCE ACT
Contract Certificate

I hereby certify that on the _____ day of _____
 19____, a contract was entered into between _____
 of _____ and _____
 of _____
 whereby _____ agreed to deliver to
 (name of exporter or name of person to whom specially protected
 produce is to be or was sold or delivered for sale or delivery to
 exporter) from _____ acres of land and known as
 _____ situated at (give full description of property) the
 following agriculture produce (here state nature and quantity of produce).

Dated the _____ day of _____ 19____

.....
*Signature of exporter, or produce dealer
 and in case the exporter or produce
 dealer is a firm or company, the signa-
 ture of one of the partners of the firm
 or secretary or principal agent of the
 company in Jamaica.*

(Section 17(4))

FORM E

THE AGRICULTURAL PRODUCE ACT
Carrier's Licence

No.....

This is to certify that *A.B.* _____ of _____
 is licensed as a carrier of specially protected produce and is authorized
 to convey such produce in the following vehicles (description of vehicles as
 in application for licence).

.....
*Signature of Collector of Taxes
 issuing Licence.*

FORM F

(Section 29(3))

THE AGRICULTURAL PRODUCE ACT

Form of Detention

Produce Inspection Division

Dealer or exporter.....

Parish.....

Location of premises.....District.....

You are hereby notified that the undermentioned agricultural produce has been detained for reconditioning.

Dated this day of 19

.....
Inspector of Agricultural Produce

FORM G

(Section 29(4))

THE AGRICULTURAL PRODUCE ACT

Form of Release

Produce Inspection Division.....

Dealer or exporter.....

Parish.....

Location of premises.....District.....

The undermentioned agricultural produce is hereby released—

For Export

For Local Use

For Destruction

.....
Dated this

.....
day of

.....
19

.....
Inspector of Agricultural Produce

AGRICULTURAL PRODUCE

(Section 23)

THIRD SCHEDULE

Oranges	Pine apples
Lemons	Mangoes
Limes	Tangerines
Grape fruit	

(Sections 23,
26 and 29)

FOURTH SCHEDULE

L.N.
485/1969.
L.N.
302/1972.

Ackee	Lemons
Annatto	Lettuce (all varieties)
Apples (all varieties)	Limes
Avocado	Mangoes
Badoo	Melons (all varieties)
Bananas	Naseberries
Beans	Nutmegs
Beetroot	Okras
Breadfruit	Onions
Cabbage	Oranges
Cacao	Orange oil
Callaloo or Spinach	Passion fruit
Cantaloupe	Pawpaws
Carrots	Peanuts
Cassava	Peas (all varieties)
Celery	Peppers (all varieties)
Chochos	Pimento
Cocoas	Pine apples
Coconuts	Plantains
Coffee	Plums (all varieties)
Corn	Potatoes (all varieties)
Cucumbers	Pumpkins
Dasheen	Radishes
Egg Plant	Rice in the husk commonly known as paddy or dahn
Eggs	Sarsaparilla
Escallion	Shaddock
Garlic	Shallot
Ginger	Sorrel
Granadillas	Soursop
Grape fruit	Squash
Guava	Strawberries
Guinep	Sugar cane
Honey	Susumber
Jackfruit	Sweetsop
Kola or Bissie	

23/2004
S. 13.

Tamarind	Turnips	
Tangelo	Ugli fruit	
Tangerines	Unprocessed milk	23/2004
Thyme	Vegetable marrow	S. 13.
Tobacco	Watermelons	
Tomatoes	Yam (all varieties)	
Tree Tomatoes	Yampies.	
Turmeric		

FIFTH SCHEDULE

(Section 2)
23/2004
S.14.

List of Livestock and Fish

- (a) Cattle
- Pigs
- Goats
- Sheep
- Donkeys
- Mules
- Horses
- Buffalo
- Rabbits
- Guinea pigs
- Hamsters
- Dogs
- (b) Chickens, including layers and broilers
- Ducks
- Geese
- Guinea Fowls
- Ostrich
- Peacocks
- (c) Fish, including all marine and other aquaculture products.

SIXTH SCHEDULE

(Section 38)
23/2004
S. 15.
Constitution
of Tribunal.

The Appeal Tribunal

- 1. The Appeal Tribunal shall—
 - (a) subject to paragraph 2, consist of three members appointed by the Minister; and
 - (b) have the following qualifications—
 - (i) the Chairman shall be an attorney-at-law; and

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- (ii) each of two other members shall be qualified in at least one of the following areas, that is to say, agriculture or public administration.

Power of one member to sit alone.

2. For the hearing of any appeal under this Act, the Appeal Tribunal may consist of one member sitting alone if the parties to the appeal so agree in writing.

Tenure of office.

3. The members of the Appeal Tribunal shall, subject to the provisions of this Schedule, hold office for such period, not exceeding two years, as the Minister may determine and shall be eligible for reappointment.

Acting appointment.

4. The Minister may appoint any person to act in the place of the Chairman or any other member of the Appeal Tribunal in the case of the absence or inability to act of the Chairman or any other member.

Resignation.

5.—(1) Any member of the Appeal Tribunal, other than the Chairman, may at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman and, from the date of the receipt by the Minister of such instrument, that member shall cease to be a member of the Appeal Tribunal.

(2) The Chairman may, at any time, resign his office by instrument in writing addressed to the Minister, and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

Revocation of appointment.

6. The Minister may, at any time, revoke the appointment of any member of the Appeal Tribunal if he thinks it expedient to do so.

Filling of vacancies.

7. If any vacancy occurs in the membership of the Appeal Tribunal such vacancy shall be filled by the appointment of another member.

Publication of membership.

8. The names of all members of the Appeal Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Remuneration.

9. There shall be paid to the Chairman and other members of the Appeal Tribunal, in respect of each appeal, such remuneration, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

Voting.

10. The decision of the Appeal Tribunal shall be by a majority of votes of the members and in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.

Power to regulate proceedings.

11. Subject to the provisions of this Schedule, the Appeal Tribunal shall regulate its own proceedings.

12. The office of Chairman or member of the Appeal Tribunal shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of
Chairman or
member of
Tribunal not
public
office.