



Agricultural Produce (Grading and Marking) Act 1928

1928 CHAPTER 19 18 and 19 Geo 5

An Act to provide for the grading and marking of agricultural produce and for purposes connected with the matters aforesaid. [3rd August 1928][3rd August 1928]

Modifications etc. (not altering text)

- C1 Act amended by [Agricultural Produce \(Grading and Marking\) Amendment Act 1931 \(c. 40\)](#) and [Agriculture and Horticulture Act 1964 \(c. 28\)](#), s. **22(1)**
- C2 Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\)](#), s. **3**.
- C3 Act excluded (1.7.2009) by [Marketing of Fresh Horticultural Produce Regulations 2009 \(S.I. 2009/1361\)](#), regs. 1(1), **22(b)**
- C4 Act excluded (1.7.2009) by [Marketing of Horticultural Produce \(Scotland\) Regulations 2009 \(S.S.I. 2009/225\)](#), regs. 1(1), **24(b)**
- C5 Act excluded (16.7.2009) by [Marketing of Fresh Horticultural Produce \(Wales\) Regulations 2009 \(S.I. 2009/1551\)](#), regs. 1, **22(b)**
- C6 Act excluded (10.10.2011) by [The Bananas \(Enforcement of Quality Standards\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/325\)](#), regs. 1(1), **21(b)**
- C7 Act excluded (11.5.2012) by [The Quality Standards for Green Bananas \(England and Wales\) Regulations 2012 \(S.I. 2012/947\)](#), regs. 1(b), **22(b)**
- C8 Act excluded (1.2.2013) by [The Marketing of Bananas \(Scotland\) Regulations 2012 \(S.S.I. 2012/349\)](#), regs. 1(1), **21(b)**

Grading of Agricultural Produce

1 Prescription and use of grade designations.

- (1) The Minister may by regulations made under this Act prescribe such designations (in this Act referred to as “grade designations”) as he may consider appropriate to indicate the quality of any articles of agricultural produce, [^{F1}or fishery produce] and any such regulations shall contain a definition (in this Act referred to as “the statutory definition”) of the quality indicated by every grade designation thereby prescribed.

Status: Point in time view as at 01/02/2013.

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- (2) Where any person sells any article of agricultural produce [^{F1}or fishery produce] to which a grade designation is applied, then, notwithstanding any contract or notice to the contrary, it shall be deemed to be a term of the contract of sale that the quality of the article accords with the statutory definition indicated by the grade designation.
- (3) For the purposes of this Act, a grade designation shall be deemed to be applied to an article if it is used by or on behalf of the vendor, when the article is sold or delivered or exposed or offered for sale, in any manner calculated to lead to the belief that the quality of the article in connection with which it is used accords with the statutory definition indicated by the grade designation.

Textual Amendments

F1 Words inserted by [Agricultural Produce \(Grading and Marking\) Amendment Act 1931 \(c. 40\), s. 1\(1\)](#)

2 Grade designation marks.

- (1) Regulations made by the Minister under this Act may prescribe such mark (in this Act referred to as a “grade designation mark”) as he may consider appropriate to represent any grade designation, and may make provision for authorising, or empowering any person or body of persons to authorise, subject to such conditions as may be attached to the authorisation, the marking with a grade designation mark of any article in respect of which such a mark has been prescribed or of any covering containing, or label attached to, any such article.
- (2) Any person who sells or delivers or exposes or offers for sale any article marked with a grade designation mark, or who uses any covering or label so marked, whether the article, covering or label was so marked by him or by some other person, shall be deemed for the purposes of the last foregoing section to use, in connection with the article marked or in connection with any article which is contained in the covering or to which the label is attached, as the case may be, the grade designation represented by the mark.
- (3) Any person who—
 - (a) forges any grade designation mark; or
 - (b) makes, disposes of, or has in his possession, any die, block, machine, or other instrument, for the purpose of forging a grade designation mark; or
 - ^{F2}(c) uses in connection with any article whatsoever, any mark of such a character or in such manner as to be calculated, by reason of the resemblance of that mark to a grade designation mark, to deceive;]
 shall, unless he proves that he acted without intent to [^{F3}deceive], be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding [^{F4}£100], or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both imprisonment and fine.
- (4) No person shall mark any article, covering or label with a grade designation mark unless he is authorised to do so by or under regulations made under this Act, and any person who acts in contravention of this subsection shall be liable on summary conviction to a fine not exceeding [^{F5}level 3 on the standard scale].

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Textual Amendments

- F2** S. 2(3)(c) substituted by [Agricultural Produce \(Grading and Marking\) Amendment Act 1931 \(c. 40\)](#), s. 4(2)
- F3** Word substituted by [Agricultural Produce \(Grading and Marking\) Amendment Act 1931 \(c. 40\)](#), s. 4(2)
- F4** Figures substituted by [Criminal Justice Act 1967 \(c. 80\)](#), [Sch. 3 Pt. I](#)
- F5** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), ss. 289F, 289G

Modifications etc. (not altering text)

- C9** S. 2 saved by [Trade Descriptions Act 1968 \(c. 29\)](#), s. 2(4)
- C10** S. 2(1) explained by [Agricultural Produce \(Grading and Marking\) Amendment Act 1931 \(c. 40\)](#), s. 3

Special provisions as to Eggs

3 Marking of preserved eggs.

Subject as hereinafter provided, it shall not, . . . ^{F6}be lawful to sell or expose for sale any egg which has been subjected to any process of preservation unless the egg is marked in the prescribed manner, and any person who acts in contravention of this section shall be liable on summary conviction in the case of a first offence to a fine not exceeding [^{F7}£20][^{F7}level 3 on the standard scale], and in the case of a second or subsequent offence to a fine not exceeding [^{F7}£100]:[^{F7}level 3 on the standard scale] Provided that the Minister shall by order exempt from the operation of this section eggs preserved by any process with respect to which he is satisfied that the marking of eggs preserved by that process cannot be enforced.

Textual Amendments

- F6** Words repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), s. 1(1), [Sch. 1 Pt. VIII](#)
- F7** Words “level 3 on the standard scale”substituted(S.) in each case for “£20”and “£100”by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), ss. 289E–289G
- F8** Figures substituted by [Criminal Justice Act 1967 \(c. 80\)](#), [Sch. 3 Pt. I](#)

Modifications etc. (not altering text)

- C11** [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 35 (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

4 Cold and chemical storage of eggs.

- (1) Any premises used or intended to be used by way of trade or for purposes of gain for the cold storage or chemical storage of eggs may be registered in the prescribed manner in a register kept by the council of the county . . . ^{F9}in which the premises are situated, in accordance with regulations made by the Minister under this Act.
- (2) If and so long as any Order in Council made under section two of the ^{M1}Merchandise Marks Act, 1926, is in force prohibiting the sale or the exposure for sale in the United Kingdom of imported eggs unless they bear an indication of origin ^{F10}... [^{F11}or any regulation [^{F12}to the European Union] directly applicable in Great Britain] is in force

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imposing requirements for securing that such eggs are marked with or accompanied by such an indication the following provisions shall have effect, that is to say:—

(a) no premises shall be used by way of trade or for the purposes of gain for the cold storage or chemical storage of eggs, unless the premises are registered premises, and, if any premises are used in contravention of the provisions of this section, the occupier of the premises shall be guilty of an offence under this section:

[^{F13}(b) it shall not be lawful to cause British eggs to be placed in cold storage or chemical storage in any registered premises unless notice in writing containing the prescribed particulars is given at or before the time of the placing to the council by which the premises are registered, and either—

(i) the eggs are marked in the prescribed manner; or

(ii) the eggs are not intended for sale by retail in shell and are kept in a container which is marked in the prescribed manner;

and if any person contravenes or fails to comply with the provisions of this paragraph he shall be guilty of an offence under this section:]

[^{F13}(ba) where British eggs have been placed in cold storage or chemical storage in any registered premises without being marked in the prescribed manner it shall not be lawful to cause them to be removed from those premises unless not less than forty-eight hours' notice in writing containing the prescribed particulars has been given to the council by which the premises are registered, and either—

(i) the eggs are marked in the prescribed manner; or

(ii) the eggs are kept in a container marked in the prescribed manner and such evidence has been furnished to that council as is reasonably sufficient to satisfy the council that they are not intended for sale by retail in shell;

and if any person contravenes or fails to comply with the provisions of this paragraph he shall be guilty of an offence under this section:]

[^{F13}(bb) the occupier of any registered premises and any person who causes British eggs to be placed in cold storage or chemical storage in such premises shall keep the prescribed records and permit any duly authorised officer of the council of the county . . . ^{F14} to inspect those records at all reasonable times; and if any person fails to comply with the provisions of this paragraph he shall be guilty of an offence under this section]

(c) an officer of the council of any county . . . ^{F14}, if authorised in that behalf and on production if so required of his authority, may at any time during the hours when the premises are open for business enter any premises in which he has reason to believe that eggs are kept in cold storage or chemical storage, and may search for and inspect eggs in the premises, and may require any person whom he finds in or about the premises to give such information as may reasonably be demanded of him as to any name and address required by the officer for the purposes of enabling him to carry out his duties under this Act, and any person who obstructs an officer so authorised in the execution of the powers conferred on him by this section or wilfully withholds any information which any such officer is empowered by this Act to require of him shall be guilty of an offence under this section:

(d) if any person removes, alters or obliterates any mark which, in compliance with the requirements of the foregoing provisions of this section, was borne by any egg at the time when it was stored in any such premises as aforesaid, or sells or exposes for sale any egg from which such a mark has been removed or on which such a mark has been altered or obliterated, he shall, unless he

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proves that he acted without intent to defraud, be guilty of an offence under this section, and in the case of a second or subsequent offence under this paragraph the court may, in addition to any other penalty, order any eggs in relation to which the offence has been committed to be forfeited:

- (e) any person guilty of an offence under this section shall be liable on summary conviction in the case of a first offence to a fine not exceeding [^{F15}five pounds][^{F15}level 3 on the standard scale] and in the case of a second or subsequent offence to a fine not exceeding [^{F15}twenty pounds][^{F15}level 3 on the standard scale].

Textual Amendments

- F9** Words repealed (E.W.) by Local Government Act 1972 (c. 70, SIF 81:1), ss. 272(1), 273(1), **Sch. 30** and repealed (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 237(1), **Sch. 29**
- F10** Words in s. 4(2) repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 1, **Sch. 4 Pt. 1** (with reg. 28(2)(3))
- F11** Words inserted by S.I. 1973/15
- F12** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, 3, 4 (with art. 3(2)(3)4(2)6(4)6(5))
- F13** S. 4(2)(b)—(bb) substituted for s. 4(2)(b) by Agriculture (Miscellaneous Provisions) Act 1963 (c. 11), s. 23(2)
- F14** Words repealed (E.W.) by Local Government Act 1972 (c. 70, SIF 81:1), ss. 272(1), 273(1), **Sch. 30** and (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 237(1), **Sch. 29**
- F15** Words “level 3 on the standard scale” substituted (S.) in each case for “five pounds” and “twenty pounds” by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289E–289G

Modifications etc. (not altering text)

- C12** S. 4 amended by Agriculture (Miscellaneous Provisions) Act 1963 (c. 11), s. 23(1)
- C13** S. 4 restricted (W.) by Local Government Act 1972 (c. 70, SIF 81:1), s. 200(1)
- C14** Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 35 (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)

Marginal Citations

- M1** 1926 c. 53.

Supplementary

5 Enforcement and expenses.

Subject as hereinafter provided, it shall be the duty of the council of every county . . . ^{F16}to enforce within their county . . . ^{F16}the provisions of this Act, and for that purpose to appoint such officers as may be necessary, and any expenses incurred by a council under this Act shall be defrayed . . . ^{F16}as part of their expenses for general county purposes . . . ^{F16}:

[^{F17}Provided that as respects Greater London, the council of every London borough as respects the borough, and the Common Council of the City of London as respects the City of London, shall perform and exercise the duties and powers imposed and conferred by this Act on councils of counties . . . ^{F16}, and this Act shall, in its application to Greater London, have effect as if for references therein to an officer of the council of

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any county . . . ^{F16}there were substituted references to an officer of the council of any London borough or of the Common Council of the City of London.]

Textual Amendments

- F16** Words repealed (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), ss. 272(1), 273(1), **Sch. 30** and (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), s. 237(1), **Sch. 29**
- F17** Proviso substituted by [S.I. 1965/602](#)

Modifications etc. (not altering text)

- C15** [S. 5](#) restricted (W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **s. 200(1)**
- C16** [S. 5](#) excluded (W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **s. 200(7)**

6 Provisions as to regulations and orders.

- (1) All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the next subsequent twenty-one days on which the House sat next after the regulations are laid before it presents an Address to His Majesty praying that the regulations of any part of them may be annulled, they shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.
- (2) Any order made or notice served under this Act may be varied or revoked by any subsequent order made or notice served in like manner.
- (3) ^{F18}

Textual Amendments

- F18** [S. 6\(3\)](#) repealed by [Agriculture \(Miscellaneous Provisions\) Act 1963 \(c. 11\)](#), **Sch. Pt. II**

Modifications etc. (not altering text)

- C17** [S. 6\(1\)](#) amended by [Statutory Instruments Act 1946 \(c. 36\)](#), **s. 5(2)**

7 Interpretation.

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

[^{F19}“Agricultural produce” and “fishery produce” include respectively all produce of agriculture or horticulture and of the fishing industry, all articles of food or drink wholly, or partly manufactured or derived from any such produce as aforesaid, and fleeces and the skins of animals]

“British eggs” means eggs produced in the United Kingdom:

“Chemical storage” means storage for the purpose of preserving eggs by any process which does not alter the composition of the shells, including storage in any gas, vapour, or gaseous mixture:

“Covering” includes any vessel, box, crate, wrapper, tray, or other container:

“Egg” means an egg laid by a domestic fowl or domestic duck:

“Grade designation” means a grade designation prescribed under this Act:

“Label” includes any band or ticket:

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“Minister” means the Minister of Agriculture and Fisheries:

“Prescribed” means prescribed by regulations made by the Minister under this Act:

“Quality,” in relation to any articles, includes the state and condition of those articles:

“Registered premises” means premises for the time being registered in manner provided by this Act.

Textual Amendments

F19 Definition substituted by [Agricultural Produce \(Grading and Marking\) Amendment Act 1931 \(c. 40\), s. 2](#)

Modifications etc. (not altering text)

C18 Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food by [S.I. 1955/554](#) (1955 I, p. 1200)

8 Application to Scotland.

In the application of this Act to Scotland, references to the Board of Agriculture for Scotland shall be substituted for references to the Minister of Agriculture and Fisheries, references to a [^{F20}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 shall be substituted for references to a council of a county], and the expenses of any council shall be defrayed out of such rate as the council may appoint.

Textual Amendments

F20 Words in [s. 8](#) substituted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 14](#); [S.I. 1996/323, art. 4\(1\)\(c\)](#)

Modifications etc. (not altering text)

C19 Functions of Board of Agriculture for Scotland now exercisable by Secretary of State: [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\), s. 1](#) and [Reorganisation of Offices \(Scotland\) Act 1939 \(c. 20\), s. 1](#)

9 Saving for other Acts.

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other enactment relating to or affecting merchandise marks or the sale of any article with respect to which this Act applies.

10 Short title and extent.

- (1) This Act may be cited as the Agricultural Produce (Grading and Marking) Act, 1928.
- (2) This Act shall not extend to Northern Ireland.

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