

N.L.C.D. 278

COCOA INDUSTRY (REGULATION) ACT, 1968

ARRANGEMENT OF SECTIONS

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N.L.C.D. 278

COCOA INDUSTRY (REGULATION) ACT, 1968¹

AN ACT to amend and consolidate the law relating to the cocoa industry and for related matters.

1. Cocoa for sale

A person shall not buy or sell or offer or expose for sale or tender in satisfaction of a claim or demand or export cocoa which is not thoroughly dry or which contains a foreign matter.

2. Transportation of dry cocoa

(1) A person shall not transport cocoa which has not been thoroughly dried.

(2) Subsection (1) does not apply to a grower of cocoa who is transporting cocoa belonging to that person from the land on which it was grown to the premises of that person for the purpose of fermenting and drying the cocoa.

1. This Act was issued as the Cocoa Industry (Regulation) (Consolidation) Decree, 1968 (N.L.C.D. 278) made on the 31st day of August, 1968, and notified in the *Gazette* on 6th September, 1968.

3. Inspection and sealing of cocoa before export

A person shall not export or cause or permit to be exported or attempt to export cocoa unless the cocoa has been inspected by an inspector and the inspector has affixed to each bag a seal and grade-mark.

4. Powers of inspectors

An inspector may require a person in possession of, or transporting, cocoa or offering cocoa for sale to submit that cocoa for inspection.

5. Powers of entry

An inspector may at a reasonable time enter premises in which cocoa is kept or suspected of being kept and inspect the cocoa found in those premises and may affix, remove or alter a seal or grade-mark on a bag containing that cocoa.

6. Unauthorised persons

(1) A person shall not attach a seal of any description to a bag containing cocoa or place a grade-mark on a bag.

(2) Subsection (1) does not apply to an inspector.

7. Seals and grade-marks not to be tampered with

(1) Where a seal or grade-mark is affixed by an inspector to a bag containing cocoa, a person shall not remove or alter the seal or grade-mark or remove or in any other way alter the contents of that bag.

(2) Subsection (1) does not apply to an inspector or a person authorised in writing by the inspector.

8. Advisory committee

(1) The Minister responsible for Agriculture may appoint an advisory committee for an area to assist the chief inspector in matters concerning the operation of this Act.

(2) An advisory committee shall include a number of persons representative of producers, the Chamber of Commerce or exporters that the Minister may think fit and those persons shall retain membership at the Minister's pleasure.

9. Chairman of advisory committee

The chief inspector or any other officer who the chief inspector may depute for the purpose shall be an ex officio chairman of a committee appointed under subsection (1) of section 8.

10. Inspector to be a member

The senior inspector of the area concerned shall be an ex officio member of a committee appointed under subsection (1) of section 8.

11. Power to co-opt

Where a member of an advisory committee is absent from the Republic, or for any other sufficient reason is unable to perform the functions of a member of the committee, the chief inspector may co-opt any other person to be a member of the committee during the absence or inability of the first-mentioned member.

12. Obstruction of an inspector

A person shall not obstruct or resist an inspector in the performance of functions under this Act or under the Regulations.

13. Penalties

(1) A person who contravenes a provision of section 1 commits an offence and, on summary conviction is liable to a term of imprisonment of not less than one year nor more than five years.

(2) A person who contravenes a provision of section 2, 3, 6, 7, or 12 and a person who fails to submit cocoa for inspection when required so to do by an inspector under section 4, commits an offence and on summary conviction is liable to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year to both the fine and the imprisonment.

(3) Despite the provisions of any other enactment a District Court shall have power to try a person charged with an offence prescribed by a provision of this Act or of the Regulations and to impose a penalty authorised to be imposed under that provision.

(4) Section 297 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) (which authorises the Court in the case of certain offences, to impose a fine in addition to or in lieu of imprisonment) does not apply to an offence under subsection (1) of this section or any other offence under this Act or under the Regulations in respect of which a minimum term of imprisonment is prescribed.

(5) Where a person is convicted of an offence under this Act or under the Regulations, the Court may order that the cocoa or any other article or thing used in connection with the offence shall be forfeited to the Republic.

14. Offence committed by body of persons

(1) Where an offence under this Act or under the Regulations is committed by a body of persons, every director, partner and officer of that body shall be deemed to have committed that offence.

(2) A person shall not be convicted of an offence under subsection (1) if that person proves

- (a) that the act or omission constituting the offence was committed by some other person, or
- (b) that the act or omission was committed without the knowledge, consent or connivance of the person charged with the offence and that due diligence was exercised by that person to prevent the commission of the offence having regard to the circumstances.

15. Regulations

The Minister may, by legislative instrument, make Regulations

- (a) prescribing the standards of quality of cocoa intended for export and the grade-marks to be used for those standards;
- (b) prescribing the methods and procedure to be used for inspection of cocoa, and for affixing seals and grade-marks to bags of cocoa, and the period for which the seals and grade-marks shall be effective;
- (c) providing for the cleansing and proper maintenance of premises in which cocoa is stored or kept;
- (d) prescribing the fees to be paid for a matter or thing done under this Act;
- (e) prescribing for the breach of a regulation a penalty not exceeding a fine of two thousand penalty units or a term of imprisonment not exceeding ten years or both the fine and the imprisonment including in a case where it appears to be appropriate, the prescription of a minimum penalty; and
- (f) generally for the better carrying into effect of this Act.

16. Interpretation

In this Act, unless the context otherwise requires,

“**chief inspector**” means the chief inspector of produce;

“**Court**” means a court of competent jurisdiction;

“**grade-mark**” means a distinguishing mark or inscription prescribed by the Regulations to be placed on a bag of cocoa which has been graded;

“**inspector**” includes the chief inspector or a person appointed by the chief inspector to exercise the powers of inspection and grading of cocoa under this Act;

“**Minister**” means the Minister responsible for Agriculture;

“**Regulations**” means Regulations made under this Act;

“**seal**” means a seal prescribed by the Regulations for sealing of a bag of cocoa which has been graded.

17. Repeals

*Spent.*²

2. The section provided for the repeal of:
 the Cocoa Industry (Regulation) Ordinance (Cap. 185),
 the Cocoa (Control of Exportation) Ordinance (Cap. 187),
 the Cocoa Industry Regulation (Amendment) Ordinance, 1953 (No. 23 of 1953), and
 the Cocoa Industry (Regulation) Ordinance (Amendment) Decree, 1968 (N.L.C.D. 257).