

Agricultural Produce (Grading And Marking) Act, 1937

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Act 1 of 1937

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1. of 1937

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/820Object and Reasons.- Act No. 25 of 1960. - The Agricultural Produce (Grading and Marking) Act, 1937 does not at present extend to the State of Jammu and Kashmir. The provisions of the Act deal mainly with the prescription and protection of merchandise marks and as such fall within entry 49 of List 1 of the Seventh Schedule to the Constitution. The State Government of Jammu and Kashmir have agreed to the extension of the Act to that State. The proposed Bill seeks to extend the Act to the State of Jammu and Kashmir. - Gazette of India, 19-4-1960, Pt. II, Section 2. Ext. p. 332. Act No. 76 of 1986. - The Agricultural Produce (Grading and Marking) Act, 1937 provides for the grading and marking of agricultural and other allied commodities with the objectives of making available quality agricultural produce including horticulture and livestock produce to the consumers. Under this Act, the Central Government has been authorised to make rules fixing grade designation to indicate the quality of any scheduled article, denning the quality indicated by every grade designation; specifying grade designation mark to represent particular grade designation authorising interested parties to grade; specifying conditions regarding manner of marking, packaging etc. and providing for the confiscation and disposal of produce marked otherwise than in accordance with the prescribed conditions with a grade designation mark. The insignia used for grading is 'AGMARK'. Grading under this Act is purely voluntary in nature. Despite the elaborate procedures prescribed in the rules under the Act, complaints have been received about the quality of Agmarked goods.2. With a view to protect the interests of the consumers and to ensure that there is no misgrading of articles, the following major amendments are proposed :(a) misgraded article is proposed to be defined as one not of the quality prescribed for the grade designation with which it is

marked;(b) the punishment prescribed under sections 4 and 5 of the Act for unauthorised or improper marking with grade designation mark and counterfeiting grade designation mark is proposed to be increased from Rs. 500 as fine to a penalty of imprisonment up to six months and fine up to Rs. 5,000 and from the existing penalty of imprisonment up to Rs. 5,000 and from the existing penalty of imprisonment up to two years or fine or both to imprisonment up to three years and fine up to Rs. 5,000 respectively;(c) it is also proposed to impose a fine not exceeding Rs. 5,000 and imprisonment for a term not exceeding six months for selling or distributing misgraded articles or articles not conforming to the prescribed grade or standard;(d) it is proposed to empower the Central Government to introduce compulsory grading with respect to commodities where such grading is deemed to be in the public interest and for the protection of consumers. The compulsory grading is proposed to be introduced in respect of any article or class of articles notified for any specific area or areas. The penalty proposed to be imposed for contravention of this provision is imprisonment up to six months and fine up to Rs. 5,000.(e) no Court shall take cognizance of the offence punishable under this Act except upon a complaint in writing made by Central Government, State Government, any officer authorised to do so, and also by recognised consumer associations and the aggrieved person :(f) it is also proposed that powers of inspection, search and seizures may also be vested in officers belonging to Central Government, or State Government or other authorities authorised by the Central Government.3. The Bill seeks to achieve the above objects and to make some other consequential and clarificatory amendments in the Act. - Gazette of India, 8-12-1986, Pt. II, Section 2, Ext., p. 28 (No. 58).[24th February 1937]An Act to provide for the grading and marking of agricultural [and other] [Inserted by 13 of 1942, Section 2 (w.e.f. 24-2-1937)] produce.WHEREAS it is expedient to provide for the grading and marking of agricultural [and other] [Inserted by 13 of 1942, Section 2 (w.e.f. 24-2-1937)] produce; It is hereby enacted as follows:

1. Short title and extent:-

(1)This Act may be called The Agricultural Produce (Grading and Marking) Act, 1937.(2)[It extends to the whole of India [* * *] [Substituted and amended successively by A.C.A.O., 1948, A.L.O., 1950 and the Part B States (Laws) Act, 1951 (3 of 1951), S.3 and Schedule.].]

Extended to the Union Territories of Dadra and Nagar Haveli, Pondicherry and Goa, Daman and Diu - See Dadra and Nagar Haveli (Laws) Regulation, 1963 (6 of 1963), Section 2 and Sch. I (1-7-1965); Pondicherry (Laws) Regulation, 1963 (7 of 1963), Sections 2, 3 (1-10-65) and G.S.R. 679, Gaz.of Ind., 8-5-65, Pt.II, S.3 (i), p. 742 reproduced in Goa Gaz., 13-5-65, Sr. I, p. 63, respectively, Goa is now a State - See Goa, Daman and Diu Reorganisation Act (18 of 1987), S.3 (30-5-1987).

2. Explanations:-

In this Act, unless the contrary appears from the subject or context:(a)"agricultural produce" includes all produce of agriculture or horticulture and all articles of food or drink wholly or partly manufactured from any such produce, and fleeces and the skins of animals;(b)"counterfeit" has the meaning assigned to that word by section 28 of the Indian Penal Code;(c)"covering" includes any vessel, box, crate , wrapper, tray or other container;(d)"grade designation" means a designation prescribed as indicative of the quality of any scheduled article;(e)"grade designation mark" means a

mark prescribed as representing a particular grade designation;(f)"quality", in relation to any article includes the state and condition of the article.(g)"prescribed" means prescribed by rules made under this Act;(h)"scheduled article" means an article included in the Schedule ; [* * *] [word " and" occurring at the end of clause (h) omitted and cl.(j) inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.2 (15-4-1987).](i)an article is said to be marked with a grade designation mark, if the article itself is marked with a grade designation mark or any covering containing or label attached to such article is so marked;(j)[an article is said to be misgraded if,- [word " and" occurring at the end of clause (h) omitted and cl.(j) inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.2 (15-4-1987).](i)the article is not of the quality prescribed for the grade designation with which it is marked;(ii)the composition of the article offered for grading is altered in any way after a sample has been drawn for analysis and determination of the grade designation of the article in accordance with the rules made under this Act;(iii)the article is tampered with in any manner; and(iv)any false claim is made for the quality prescribed for its grade designation, upon the label or through advertisement or in any other manner.]

3. Prescription of grade designation:-

[(1)] [Section 3 renumbered as sub-section (1) and after sub-section (1) as so renumbered, sub-section (2) [now sub-section (3) - See F.N.[e] inserted by the Delegated Legislation,Provisions (Amendment) Act (20 of 1983), S.2, Sch.(15-3-1984).]] The Central Government may, after previous publication by notification in the Official Gazette, [make rules to carry out the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-] [Substituted for the words " make rules -" by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.3 (15-4-1987).](a)fixing grade designations to indicate the quality of any scheduled article;(b)defining the quality indicated by every grade designation ;(c)specifying grade designation marks to represent particular grade designations ;(d)authorising the person or a body of persons, subject to any prescribed conditions, to mark with a grade designation mark any article in respect of which such mark has been prescribed or any covering containing or label attached to any such article ;(e)specifying the conditions referred to in clause (d) including in respect of any article conditions as to the manner of marking, the manner in which the article shall be packed, the type of covering to be used, and the quantity by weight, number or otherwise to be included in each covering;(f)providing for the payment of any expenses incurred in connection with the manufacture or use of any implement necessary for the reproduction of a grade designation mark or with the manufacture or use of any covering or label marked with a grade designation mark [or with measures for the control of the quality of articles marked with grade designation marks including testing of samples and inspection of such articles or with any publicity work carried out to promote the sale of any class of such articles;] [Inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (20 of 1943), S.2 (13-8-1943).] [* * *] [Word " and" occurring at the end of cl.(f) omitted, and cl.(h) inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.3 (15-4-1987).](g)providing for the confiscation and disposal of produce marked otherwise than in accordance with the prescribed conditions with the grade designation mark;(h)[any other matter which is required to be, or may be, prescribed.] [Word " and" occurring at the end of cl.(f) omitted,

and cl.(h) inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.3 (15-4-1987).][(3)] [Section 3 renumbered as sub-section (1) and after sub-section (1) as so renumbered, sub-section (2) [now sub-section (3) - See F.N.[e] inserted by the Delegated Legislation,Provisions (Amendment) Act (20 of 1983), S.2, Sch.(15-3-1984).] Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

3A. [Powers of entry, inspection and search.- [Sections 3-A and 3-B inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.4 (15-4-1987).]

(1)Any officer of the Central Government or a State Government or any authority, being an officer of a gazetted rank or of equivalent rank, authorised by the Central Government may, if he has reason to believe that any provision of this Act or the rules made thereunder has been, or is being, contravened, enter any premises at any reasonable time and make necessary inspection of, and search for, the agricultural produce in relation to which such contravention has been, or is being, made.(2)Every authorisation made under sub-section (1) shall be deemed to be a warrant referred to in Section 93 of the Code of Criminal Procedure, 1973.

3B. Powers of the authorised officer to seize agricultural produce.-

(1)An officer authorised under sub-section (1) of Section 3-A may seize and detain any agricultural produce in relation to which an offence under this Act or the rules made thereunder is being, or appears to have been, committed, or which is intended or likely to be used in the commission of such offence:Provided that where any agricultural produce seized under this sub-section is subject to speedy or natural decay, the officer so authorised may dispose of such produce in such manner as may be prescribed.(2)The provisions of Section 102 of the Code of Criminal Procedure, 1973 shall apply to every seizure made under this section.]

4. Penalty for unauthorised marking with grade designation mark:-

Whoever marks any scheduled article with a grade designation mark, not being authorised to do so by rule made under section 3, shall be punishable [with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees] [Substituted for the words " with fine which may extend to five hundred rupees" by the Agricultural Produce (Grading and Marking) (Amendment) Act, (76 of 1986), S.5 (15-4-1987).].

5. Penalty for counterfeiting grade designation mark:-

Whoever counterfeits any grade designation mark or has in his possession any die, plate or other instrument for the purpose of counterfeiting a grade designation mark shall be punishable [with imprisonment for a term not exceeding three years and fine not exceeding five thousand rupees] [Substituted for the words "with imprisonment which may extend to two years, or with fine, or with both" by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.6 (15-4-1987).].

5A. [Penalty for selling misgraded articles.- [Sections 5-A, 5-B and 5-C inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (76 of 1986), S.7 (15-4-1987).]

Whoever sells any scheduled article which is misgraded shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees.

5.

-B. Power to prescribe compulsory grade designations in respect of certain articles.-(1)Where the Central Government is of opinion that it is necessary in the public interest or for the protection of consumers that any scheduled article or class of articles shall not be sold or distributed except after such article or class of articles is marked with the grade designation mark, it may, by notification in the Official Gazette, make a declaration to that effect.(2)Any notification issued under sub-section (1) shall specify the area or areas in relation to which the notification shall have effect.(3)Where a notification under sub-section (1) is issued in respect of any area or areas, no person shall sell or offer to sell or distribute or offer to distribute any scheduled article or class thereof in the area or areas except in accordance with the provisions of this Act or the rules made thereunder.(4)Whoever contravenes the provisions of this section shall be punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees.

5.

-C. Institution of prosecution.-No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by-(a)the Central Government or the State Government or any officer authorised by it in writing; or(b)the person aggrieved; or(c)a recognised consumer association, whether the person aggrieved is a member of that association or notExplanation.- For the purposes of this section, "recognised consumer association" means a Voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.]

6. Extension of application of Act:-

The Central Government, after such consultation as it thinks fit of the interests likely to be affected, may by notification in the Official Gazette declare that the provisions of this Act shall apply to an article of agricultural produce not included in the schedule [or to an article other than an article of agricultural produce] [Inserted by the Agricultural Produce (Grading and Marking) (Amendment) Act (13 of 1942), S.3 (w.e.f.24-2-1937).] and on the publication of such notification such article shall be deemed to be included in the Schedule.

Applied to Mushrooms and poppy seed by S.O. 2678, G.I. 21-9-63, Pt. II, S.3 (ii), p. 3415 and S.O. 2893 G.I., 12-10-1963, Pt. II, S.3 (ii), p. 3697; to soyabeans and Hay and buffalo hair by S.O. Nos. 4661, 4878, 4879 - See Gazette of India, 1969, Pt. II, S.3 (ii), pp. 5103 & 5311 to cattle feeds and poultry feeds by S.O. 4065 - See Gazette of India, 1972, Pt. II, S.3 (ii), p. 5565; cocoa beans and their powder - Gazette of India, 2-1-1982, Pt. II, S.3 (i), p.43.

THE SCHEDULE(See section 2)

1.

Fruit

2.

Vegetables

3.

Eggs

4.

Dairy produce

5.

Tobacco

6.

Coffee

7.

Hides and skins

8. [Fruit products.

9.

Atta.

10.

Oil seeds.

11.

Vegetable oils (including hydrogenated oils and vegetable fats).

12.

Cotton.

13.

Rice.

14.

Lac.

15.

Wheat.

16.

Sun hemp

17.

Sugar-cane gur (jaggery).

18.

Myrobalans.

19.

Bura.

20.

Wool and Goat hair.

21.

Bristles.

22.

Resin and turpentine.

23.

Arecanuts.

24.

Essential Oils.

25.

Cashewnut.

26.

Cardamom.

27.

Pepper.

28.

Ginger.

29.

Honey.

30.

Curry powder.

31.

Kapok.

32.

Raw Jute.

33.

Paddy.

34.

Millets.

35.

Mesta.

36.

Chillies.

37.

Turmeric.

38.

Tapioca Chips and Tapioca Flour.

39.

Sisal and Aloe Fibres.

40.

Oil cake.

41.

Condiments and spices (Other than pepper, ginger, cashewnut, cardamom, chillies and turmeric, to which the provisions of the Act have already been applied).

42.

Pulses.

43.

Mushrooms.

44.

Poppy seeds.

45.

Walnut.

46.

Gaur Gum, Karyia gum etc.

47.

Beeswax

48.

Gram.

49.

Jowar.

50.

Maize.

51.

Barley.

52.

Ragi.

53.

Bajra.

54.

Meat chicken and dressed chicken meat.

55.

Sheekakai powder.

56.

Cashew-shell oil (liquid)] [Articles 8 to 56 have been added by notification issued under S.6 from time to time.].