CHAPTER 85

AGRICULTURAL PRODUCE (EXPORT) ORDINANCE *

To control the export of Agricultural Produce.

(18th January, 1935)†

ORDINANCE III of 1935, as amended by Ordinance XIX of 1935; Legal Notice 4 of 1963; Acts: XI of 1972 and XIII of 1983; Legal Notice 408 of 2007; Act V of 2007; and Legal Notice 346 of 2008.

1. The short title of this Ordinance is the Agricultural Produce (Export) Ordinance. Short title.

2. In this Ordinance unless the context otherwise requires - Interpretation. *Amended by: XIX.1935.2; L.N. 4 of 1963; XI. 1972.2.*

"agricultural produce" or "product" means potatoes, onions, cumin seed, and further includes any article whatever produced or derived from farming operations or any horticultural product which the Minister responsible for agriculture may, from time to time, by notice in the Government Gazette, declare to be agricultural produce for the purpose of this Ordinance;

"brand" means any stamp, mark or label used to distinguish agricultural produce by concrete or visible sign;

"broker" and "exporter" include respectively the agent of any broker or exporter;

"Director" means the Director of Agriculture;

"inspector" means a person generally or specifically designated by the Director to examine or grade or both examine and grade agricultural produce intended for export or to perform such other duties as may be assigned to him under this Ordinance.

3. (1) No person may act as exporter of any agricultural produce unless he is registered at the office of the Director who shall issue a certificate of registration in that behalf. Registration certificate for exporters. *Amended by: XIX. 1935.2.*

(2) No person shall export or cause or permit to be exported, or attempt to export from Malta, any agricultural produce for which rules are made, unless and until such produce has been inspected, or inspected, graded, packed and branded, as the case may be, in the manner prescribed by this Ordinance or by such rules. Prohibition of export of agricultural produce, without inspection.

4. (1) No person shall export or cause or permit to be exported, or attempt to export - Prohibition of export of agricultural produce which is unsound. *Amended by: XIX. 1935.2.*

(*a*) agricultural produce intended for human consumption which at the time of presentation for export is unfit for such consumption; or

* This Ordinance has been repealed by Act XXXIII of 2023.
†*See* Proclamation No. II of the 18th of January, 1935.

(*b*) agricultural produce which, owing to its condition or for any other reason, is unlikely to be brought to its destination in a sound or good marketable state.

(2) The question whether any produce is or is not in such a condition as would render it subject to the prohibition contained in subarticle (1) shall be determined by the inspector according to the instructions given generally or specifically by the Director.

Sanction of premises for the storage of products for export. *Amended by: XIX. 1935.2.*

5. (1) No person shall export or cause or permit to be exported or attempt to export any product unless the places or premises where such products are collected, prepared or stored, are places or premises sanctioned by the Director as fit for such purpose.

Withdrawal of sanction.

(2) The sanction given by the Director may be, at any time, withdrawn by him if it appears that such places or premises are not being kept in such a condition or do not possess such appurtenances or facilities as will enable the person using them to comply with the provisions of this Ordinance.

Powers of entry on premises and inspection, etc. *Amended by: XIX. 1935.2.*

6. For the purposes of this Ordinance, every inspector and any person generally or specially authorised in writing by or on behalf of the Director, may at all reasonable times enter any premises in which is kept or suspected of being kept for export any agricultural produce and may examine any such premises or any receptacle or package therein.

Licence for brokers. *Amended by: XIX. 1935.2.*

7. (1) No person may act as broker in agricultural produce intended for export, for which rules are made, unless licensed for that purpose by the Director.

(2) Every licensed broker shall be allotted a registration number which shall be his official number for the purposes of this Ordinance and of any rules made thereunder.

Prohibition of brokers from trading in agricultural produce.

8. No broker may trade in his own name or on his own or joint account, or in partnership with others, in agricultural produce intended for export for which rules are made.

Weighers.

9. No person who is not a licensed public weigher may weigh agricultural produce for export, and no person shall act as both weigher and broker or as both weigher and exporter in respect of the same agricultural produce intended for export.

Power of Minister to make regulations. *Amended by: L.N. 4 of 1963; XI. 1972.3.*

10. (1) The Minister responsible for agriculture may make rules to provide for the following matters relating to agricultural produce intended for export, namely:

(*a*) the inspection of agricultural produce intended for export and the inspection of the premises in which agricultural produce is prepared, manufactured or otherwise dealt with;

(*b*) the time and place at which and the manner in which notice of intention to export shall be given, the manner of packing, the size, description, quality and material of the receptacles, the weight of the contents and the

branding of such weight and of the receptacles;

(*c*) the time and place at which delivery of the product shall take place on the wharves;

(*d*) the place and manner of storage, the conveyance, and the treatment of any product;

(*e*) the inspection of agricultural produce, the fixing of grades and of the general conditions under which agricultural produce may be accepted for export, the place and manner of inspection and of grading and branding of any product and the manner in which different designations or grades of agricultural produce shall be branded or indicated whether on the receptacle or on a certificate of the inspector or otherwise;

(*f*) the percentage which shall be inspected in any one consignment;

(*g*) the limits of toleration in impurity and of variation of standard sizes of products and packages, and the maximum amount of moisture which may be present in any agricultural produce intended for export;

(*h*) the specific designation under which any particular kind of agricultural produce may be exported and the definition of each such kind of produce;

(*i*) the abstraction or removal of samples by an inspector for examination, inspection, or analysis;

(*j*) the circumstances under which different kinds of agricultural produce may be accepted or rejected, and degraded, regraded, or rebranded by an inspector after examination and inspection;

(*k*) the circumstances under which and the conditions on which any agricultural produce inspected and graded may be withdrawn from shipment;

(*l*) the forms of notices, certificates and licences and other forms to be used or issued for the purposes of this Ordinance;

(*m*) the issue, term of validity, and renewal of licences and registration certificates under this Ordinance;

(*n*) the fees which shall be paid by exporters and brokers for the issue or renewal of their registration certificates and licenses as well as the fees to be paid by exporters for inspection and for grading;

(*o*) the duties and functions of growers, brokers, weighers, and exporters of agricultural produce for the purpose of this Ordinance, and the commission payable to brokers by exporters or growers;

(*p*) the payment to the director of any amount of money due by exporters as the price of agricultural produce and the repayment by the director to the growers of such produce and to the brokers of their respective

share;

(*q*) the constitution of the Board of Reference mentioned in article 18 and the fee to be deposited by the exporter in connection with a reference to such Board; and

(*r*) generally for the better carrying out of the objects and purposes of this Ordinance.

(2) Differing rules may be made under this article to apply to different kinds of agricultural produce.

(3) No rule made under subarticle (1)(*p*) and nothing done or omitted to be done thereunder shall render the Government liable towards any grower of agricultural produce or towards any broker in respect of any money due to them by any exporter of agricultural produce unless such money has been collected by the Director.

Penalty for brokers trading in agricultural produce. *Amended by: XIX. 1935.2; XIII. 1983.5; L.N. 408 of 2007.*

11. Any licensed broker, who purchases, sells or otherwise deals, in his own name, or on his own or joint account or in partnership with others, and any person who acts as broker or dealer in agricultural produce intended for export, for which rules are made, without a licence from the Director shall, for each offence be liable, on conviction, to a fine not exceeding forty-six euro and fifty-nine cents (46.59).

Penalty for exporters purchasing through unlicensed brokers. *Amended by: XIII. 1983.5; L.N. 408 of 2007.*

12. Any registered exporter who purchases or otherwise trades in agricultural produce intended for export otherwise than through the agency of a licensed broker, and any person who exports, causes or permits to be exported or attempts to export agricultural produce, without being a registered exporter, shall for each offence be liable, on conviction, to a fine not exceeding forty-six euro and fifty-nine cents (46.59):

Provided that any registered exporter may buy agricultural produce for export directly from the grower.

Penalty for exporting agricultural produce without complying with provisions of Ordinance. *Amended by: XIII. 1983.5; L.N. 408 of 2007.*

13. Any person who exports or causes or permits to be exported or attempts to export any agricultural produce without the provisions of this Ordinance having been complied with, shall for each offence be liable, on conviction, to a fine not exceeding one hundred and sixteen euro and forty-seven cents (116.47).

Penalty for applying to agricultural produce, certificates issued in respect of other agricultural produce. *Amended by: XIII. 1983.5; L.N. 408 of 2007.*

14. Any person who wilfully applies to agricultural produce intended for export a certificate or label or warranty given in relation to any other agricultural produce shall be guilty of an offence, and liable, on conviction, to a fine not exceeding one hundred and sixteen euro and forty-seven cents (116.47) or to imprisonment for a term not exceeding three months.

15. Any person who resists or hinders an inspector in the lawful exercise of his powers or duties under this Ordinance or any rule issued thereunder shall be guilty of an offence and liable, on conviction, to a fine not exceeding forty-six euro and fifty-nine cents (46.59).

Penalty for resistance or hindrance. *Amended by: XIII. 1983.5; L.N. 408 of 2007.*

16. Any person who fails, within the time required by an inspector, to remove any produce from any place of inspection or shipment whenever such removal is so required shall be guilty of an offence and liable, on conviction, to a fine not exceeding eleven euro and sixty-five cents (11.65) for every day during which the offence continues.

Penalty for failure to remove produce. *Amended by: XIII. 1983.5; L.N. 408 of 2007.*

17. (1) Any person who contravenes any provision of this Ordinance or of any rule issued thereunder, or makes default in complying with any such provision with which it is his duty to comply, shall, if no penalty is specially provided for the contravention or default, be liable, in the case of a first conviction, to a fine not exceeding forty-six euro and fifty-nine cents (46.59), and, in the case of a second or subsequent conviction, to a fine not exceeding one hundred and sixteen euro and forty-seven cents (116.47).

Penalty for contravention of or failure to comply with provisions of this Ordinance. *Amended by: XIX. 1935.2; XIII. 1983.5; L.N. 408 of 2007.*

(2) The Director may withdraw any licence or certificate of registration issued or renewed under this Ordinance, in any case in which the holder of such licence or certificate has been found guilty of an offence under this Ordinance.

18. (1) If an inspector refuses to pass for export any consignment of produce, he shall forthwith give notice in writing to the exporter stating the reason for his refusal: the exporter may thereupon, in writing, require the inspector to refer the matter immediately to the Administrative Review Tribunal established in terms of article 5 of the Administrative Justice Act and the provision of this Act shall apply to such an appeal, for decision as soon as possible as to whether the produce should be passed for export.

Appeal from decision of inspector. *Substituted by: V. 2007.25.*

Cap. 490.

(2) The exporter may be present at any examination of his produce by an inspector.

18A. The Board of Reference shall respect and apply the principles of good administrative behaviour laid down in article 3 of the Administrative Justice Act .

Observance of the principles of good administrative behaviour. *Added by: L.N. 346 of 2008.* Cap. 490.

19. No action or other legal proceedings shall be taken against the Government or any officer of the Government in respect of any loss arising from the detention of produce or from its deterioration on account of such detention for the purpose of inspection under this Ordinance.

Government not to be liable for loss arising from detention or deterioration of produce.