Treasurer — Accountant General 7/1966

CHAPTER 99.

PRODUCE PROTECTION

(1*st May*, 1905.) 7/1905 12/1907 9/1934 1/1936

Short title

1. This Ordinance may be cited as the Produce Protection Ordinance.

Interpretation.

2. In this Ordinance—

"licensed dealer" means a person licensed hereunder;

"produce" means the several articles enumerated in the Schedule; Ord. 9/1934

"purchase" includes barter;

"owner" includes the tenant or person in actual possession, the manager or any other person having chief authority on any lands;

"police authority" means any commissioned or non-commissioned police officer;

"police officer" includes Court bailiffs and rural constables.

Licence to be taken for purchasing of produce.

3. Any person who shall purchase, except from a licensed dealer, any produce without having previously obtained a licence under this Ordinance, and any person who shall receive into his possession any produce so purchased as aforesaid, shall be liable on summary conviction before a Magistrate to a penalty not exceeding forty-eight dollars, and in default of payment to be imprisoned with or without hard labour for any term not exceeding four months: Provided always that this section shall not apply to any purchase by any person of produce for domestic use and not for the purpose of dealing otherwise with the same, or to any purchase by the owner of any plantation for the purpose of planting or sowing the same, or to a sale by the Provost Marshal or a bailiff under legal process. Ord. 12/1907 Ord. 9/1934.

Sales and purchases to be made between 6 a.m. and 6 p.m.

Ord. 12/1907.

Ord. 1/1936.

4. Any person who sells or offers for sale and every person, whether licensed or not, who purchases or who delivers or takes delivery of any produce at any time except between the hours of six in the forenoon and six in the afternoon shall be guilty of an offence punishable on summary conviction, and on conviction thereof may be fined any sum not exceeding forty-eight dollars, and in default of payment may be imprisoned with or without hard labour for any term not exceeding four months: Provided always that nothing in this section contained shall interfere with the exportation at any time of any produce from the Colony or to the sale or delivery of any produce for domestic use.

Power to grant licences.

Ord. 9/1934.

5. (1) Any person may make application to the Treasurer in a prescribed form for a licence to carry on business as a licensed dealer. The name, address and occupation of applicant and place wherein such business is to be carried on to be clearly set out therein.

(2) The Treasurer, upon receipt of such application may—

(*a*) refuse to issue a licence by writing the word "refused," his signature and the date on the application form and returning it to the applicant within seven days.

The Treasurer shall not be bound to give his reasons for such refusal; or

(*b*) issue a licence in a prescribed form to the applicant upon payment of a fee of two dollars and forty cents except in the case of a licence to purchase tomatoes for which there shall be a licence fee of twenty-four dollars.

Ord. 1/1936.

(3) Licences issued shall bear consecutive numbers, and the Treasurer shall keep a record of same and supply copies of such record to the Agricultural and Police Departments.

Ord. 9/1934.

(4) Licences granted hereunder shall be issued for each annual period expiring on the 30th June in each year.

One licence for two of more persons carrying on business in partnership.

6. Two or more persons carrying on business in partnership shall not be obliged to take out more than one licence in respect of the same place of business; and where any person intending to carry on such business is not resident in the island, application for a licence may be made in his name by his partner, attorney or agent. A licence to two or more persons shall not be determined by the death or retirement from the

business of any one or more of such partners, but no licence shall be assignable or shall authorize any person to carry on business by reason of his being the executor or administrator of the person to whom such licence may have been granted.

Examination of persons offering produce for sale.

Ord. 12/1907.

Ord. 9/1934.

7. (1) Any person who offers any produce for sale, and refuses to answer or makes any false answer to any question which may be put to him for the purpose of ascertaining his name and place of abode, and the name or other description and the particular situation of the lands from which such produce was derived by the person or servant of the person to whom such produce is offered for sale, or the name of the person from whom he purchased the same shall be guilty of an offence punishable on summary conviction, and, on conviction thereof by a Magistrate, may be fined in any sum not exceeding forty-eight dollars, and in default of payment may be imprisoned with or without hard labour for any term not exceeding four months, and in any such case it shall be lawful for the person to whom such produce is or has been offered for sale to direct a police officer to apprehend and to take before a Magistrate the person offering or having offered such produce for sale, and also to retain the produce so offered for sale, to be dealt with as such Magistrate may direct.

(2) The Magistrate on its being proved to his satisfaction by the person offering such produce for sale that he was in lawful possession of the same shall order such produce to be delivered up to him, or in default of such proof being given within a time allowed by such Magistrate shall make an order for the sale of such produce, and the moneys arising from such sale shall be paid to the person whom the Magistrate considers lawfully entitled to the possession of such produce, provided that all persons having any right to, in or over such produce, shall have similar rights to, in or over the moneys arising from the sale thereof.

Licensed dealer to keep purchases book.

Ord. 9/1934.

8. Every licensed dealer shall keep a purchases book and shall within twenty-four hours after delivery of purchases to him enter therein the date of delivery, name and address of seller, quantity and description of produce, and price paid, and the name or other description and situation of the lands from which such produce was derived.

Power to search premises of licensed dealer.

Ord 9/1934.

9. It shall be lawful for any police officer authorized in writing by a Magistrate or a Justice of the Peace, or for the police authority to enter the place of business of any licensed dealer, and to call for and inspect the book required to be there kept by the preceding section at any time between the hours of eight in the morning and four in the afternoon, and take copy of any entry in such book, and if such dealer fails to produce such book or refuses to allow any such copy to be taken, or if any entry which ought to have been made is not made in such book, or if any entry in such book is false in any particular, such dealer shall be guilty of an offence punishable on summary conviction, and on conviction thereof by a Magistrate may be fined in any sum not exceeding forty-eight dollars, and in default of payment may be imprisoned with or without hard labour for any term not exceeding four months:

Provided that in any proceedings under the two preceding sections it shall be a good defence if the defendant prove that the offence charged is due solely to the act or omission of any agent or partner and without any act, neglect or default of his own, and that he has taken all precautions to ensure the due compliance with the provisions of those sections, and in such case the agent or partner shall be liable under the said sections.

Record of conviction.

Ord. 9/1934.

10. Where a licensed dealer is convicted of any offence against this Ordinance the Magistrate shall record such conviction on the licence, and if he sees fit may at any time impound and cancel a licence of a person so convicted.

Power of police officer to search any person suspected.

Ord. 12/1907.

Ord. 9/1934.

11. It shall be lawful for any police officer in any district or place in the Colony in any highway, street or public place to search any person whom he may have good cause to suspect of coming from any land where he shall have been stealing produce, or any person aiding or abetting any such person and having in his possession any produce, which shall have been stolen by any such person or persons as aforesaid, and also to stop and search any package, parcel, cart or other conveyance in or upon which such police officer shall have good cause to suspect any such produce is being carried by any such person or persons, and should there be found any produce upon such person, or in any such package, parcel, cart or other conveyance, to seize and detain such produce and such police officer shall in such case apply for a summons citing such person to appear before a Magistrate, and if such person shall have stolen such produce, the Magistrate shall deal with him according to law.

Person found upon or coming from land, &c.

Ord. 12/1907.

Ord. 9/1934.

12. Where any person shall be found upon or coming from land upon which any produce is grown, and shall then and there have in his possession any produce, it shall be lawful for any person having the right of gathering the same upon such land, or for the occupier of such land or for the servant of either of them, or for any person acting by the order, and in aid of the said several persons to demand from the person so found such produce in his possession, and in case such person shall not immediately deliver up the same to take the same from him for the use of the person entitled to the produce upon such land.

Questions to be put to persons found on land and power to apprehend.

Ord. 12/1907.

Ord. 9/1934.

13. Where any person shall be found on any land upon which any produce are cultivated, it shall be lawful for any person having the right of such produce upon such land or for the occupier of the land or for any servant of either of them or for any person authorized by either of them to require the person so found forthwith to quit the land whereon he shall be so found, and also tell his christian name, surname and place of abode, and in case such person shall, after being so required, offend by refusing to tell his real name and place of abode or by giving such general description as to his place of abode as shall be illusory for the purposes of discovery or wilfully continuing or returning upon the land, it shall be lawful for the party so requiring him aforesaid, and also for any person acting by his order or in his aid to apprehend such offender, and to convey him or cause him to be conveyed as soon as conveniently may be before a Magistrate, and such offender whether so apprehended or not upon being convicted of any such offence before a Magistrate, shall forfeit and pay such sum of money not exceeding forty-eight dollars as to the Magistrate shall seem meet, together with the costs of the conviction, and in default of payment shall be imprisoned with or without hard labour for any term not exceeding four months:

Provided that no person so apprehended shall, on any pretence whatsoever, be detained for a longer period than twelve hours from the time of his apprehension until he shall be brought before some Magistrate; and that if he cannot on account of the absence or distance of the residence of the Magistrate or owing to any other reasonable cause be brought before a Magistrate within such twelve hours as aforesaid, then the person so apprehended shall be discharged and may nevertheless be proceeded against for his offence by summons or

warrant, and be tried in a summary way before a Magistrate according to the provisions of the Magistrate's Code of Procedure Act, or any Act amending the same, as if no such apprehension had taken place.

Cap. 46.

Alteration of Schedule.

Ord. 9/1934

14. The Administrator in Council may add to or otherwise vary the list of articles in the Schedule.

Evidence.

15. It shall not be necessary in any proceeding against any person under this Ordinance to negative by evidence any certificate, licence, consent, authority, or other matter of exceptional defence, but the party seeking to avail himself of any certificate, licence, consent, authority, or other matter of exceptional defence shall be bound to prove the same.

Prosecution to be commenced within three months.

16. The prosecution of every offence punishable by virtue of this Ordinance shall be commenced within three months after the commission of the offence.

General penalty.

17. Any person who does anything by this Ordinance forbidden to be done or omits or neglects to do anything by this Ordinance required to be done, and for which no special penalty is provided, shall on conviction thereof before a Magistrate forfeit and pay a penalty not exceeding forty-eight dollars and in default of payment shall be imprisoned with or without hard labour for any term not exceeding four months.

SCHEDULE. Ord. 9/1934.

Article.	*Definition.*	
(1) Cocoa	Includes plants, the growing tree or any part thereof, pods and beans.	
(2) Coffee	Includes growing plants, trees and berries.	
(3) Spices	Includes vanilla, vanilloes, nutmegs, mace, cloves, black and white pepper, cinamon bark, allspice, bay leaves and kola nuts and also the growing plants, and trees and any part thereof.	
(4) Limes	Includes limes, growing lime plants and trees or parts thereof, seeds, pulp, extracted juice and any preparation or manufactured product thereof or oil or essence derived or extracted therefrom.	
(5) Tomatoes	Fruit of the tomato plant for export.	Ord. 1/1936.