

# Produce (Enforcement Of Export Standards) Act

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## SCHEDULES

### FIRST SCHEDULE

*Produce to which Act applies*

### SECOND SCHEDULE

*Constitution and proceedings of Board*

**An Act to make provision for the inspection of commodities for export from Nigeria at ports of shipment, for the purpose of enforcement of grades and standards of**

**quality in respect of such commodities, and for matters incidental to the execution of the powers conferred by this Act.**

[1959 No. 21.]

[1st December, 1959]

[Commencement.]

## **1. Short title**

This Act may be cited as the Produce (Enforcement of Export Standards) Act.

## **2. Interpretation**

(1) In this Act, unless the context otherwise requires-

**"assistant produce officer"** means an officer of that rank in the Produce Inspection Service of the Government, whether of the Government of the Federation or of a State;

**"Board"** means the Produce Inspection Board established under section 4;

**"buy"** includes exchange or barter, whether for goods or services, and any agreement or contract to buy, exchange or barter;

**"buyer"** means the person who himself conducts the transaction of buying, whether for himself or for another;

**"chief produce inspector"**, subject to the provisions of subsection (2) of this section, means an officer of that rank in the Produce Inspection Service of the Federation;

**"clean"** means to free produce from any foreign, superfluous or inferior matter by picking, boiling or other means and includes the extraction of excessive moisture from produce;

**"export"**, with its grammatical variations and cognate expressions, means to take or cause to be taken out of Nigeria;

**"exportable standard"** means a standard which is not lower than that prescribed for produce intended for export, under the provisions of the Export of Nigerian Produce Act or any other law;

[Cap. E20.]

**"expose for sale"** includes to place any produce on premises on which produce is habitually bought by, or for eventual delivery to, any exporter of produce or licensed buying agent, whether the person so placing such produce states that he intends to offer it for sale or not;

**"Government"** means the Government of the Federation or of a State;

**"inspector"**, subject to the provisions of subsection (2) of this section, means a produce inspector of the Produce Inspection Service of the Federation, and includes any person appointed as an inspector or examiner for the purposes of this Act;

**"licence"** means a licence issued in accordance with the provisions of this Act;

**"licensed buying agent"** means a person or firm or a servant of such person or firm holding a licence in that behalf issued by the Commodity Boards under the provisions of the Commodity Boards Act;

[Cap. CI7.]

**"licensing authority"** means an authority empowered under this Act to grant a licence;

**"Minister"** means the Minister for the time being charged with responsibility for matters relating to external trade;

**"pest"** means any vermin, insect, parasite, fungus, bacterium or disease harmful to produce;

**"port of shipment"** means the place from which produce is exported by any means and for such purpose the whole of Lagos shall be deemed a port of shipment;

**"produce officer"**, subject to the provisions of subsection (2) of this section, means any officer of the Produce Inspection Service of the Federation of or above the rank of produce officer or pest infestation control officer;

**"possess for sale"** include constructive possession of produce which is exposed for sale, or of produce which is found upon the premises of any store in respect of which there is in force a certificate of registration issued in accordance with the provisions of any regulations made under this Act;

**"sell"** includes exchange of barter, whether for goods or services, and any agreement or contract to sell, exchange or barter;

**"senior produce inspector"** subject to the provisions of subsection (2), of this section, means an officer of that rank in the Produce Inspection Service of the Federation.

(2) Except in any respect that the President may otherwise direct, officers of the Produce Inspection Service of Ekiti, Ogun, Ondo, Oshun and Oyo States -

(a) shall have and may exercise in respect of Lagos all the powers and duties conferred in this Act upon officers of the Produce Inspection Service of the Federation; and

(b) shall have and may exercise in respect of Lagos all the powers and duties conferred upon them in Ekiti, Ogun, Ondo, Oshun and Oyo States under any law in force in those States dealing with the inspection and grading of produce for export,

with the exception of powers and duties relating to the final re-examination of produce at the time of shipment.

(3) Subsection (2) of this section shall not come into operation until the Minister shall have notified in the *Gazette* of the Federation the consent of the Governors of Ekiti, Ogun, Ondo, Oshun and Oyo States thereto.

### 3. Produce to which Act applies

(1) This Act shall apply to the produce described in the First Schedule to this Act, being produce intended for export, and the word **"produce"** in this Act shall be construed accordingly.

[First Schedule.]

(2) The Minister may by order add to or delete from the First Schedule any description of produce.

#### 4. **Establishment of the Produce Inspection Board**

(1) Upon the coming into operation of this Act, the Produce Inspection Board established under the provisions of section 5 of the Produce Inspection Act, without prejudice to anything lawfully done under that Act shall cease to exist and there shall be established a Produce Inspection Board (in this Act referred to as the Board) constituted as hereinafter mentioned.

[1950 No. 24.]

(2) The Board shall be appointed by the Minister of Commerce and shall consist of a chairman and 38 other members, all being persons of integrity serving in the civil service of the Federation or a State of the Federation and having technical experience of the inspection of produce for export. The chairman and one member shall be in the public service controlled by the Federal Civil Service Commission and of the other members one shall be nominated by the Governor of each of the States of the Federation. All appointments to the Board shall be made with the consent of the appropriate civil service commission.

#### 5. **Constitution and proceedings of Board**

The provisions of the Second Schedule to this Act shall apply in relation to the constitution and proceedings of the Board.

[Second Schedule.]

#### 6. **Functions of the Board**

The functions of the Board shall be as follows-

(a) to advise the Minister under section 6 (1) (m) of the Commodity Boards Act;

[Cap. CI7.]

(b) to advise the Minister upon the making of regulations under section 7, or the making of any order under subsection (2) of section 3 of this Act;

(c) to advise the States of the Federation, upon request, on matters concerning produce inspection legislation under State produce inspection laws;

(d) to advise the Minister concerning the Act or its application or any matter concerning produce inspection generally.

#### 7. **Power to make regulations**

(1) The Minister with the advice of the Board may make regulations prescribing or providing for-

(a) the precautions which shall be taken to prevent the occurrence and spread of pest infestation in produce at Lagos by means of inspection thereof and for such purposes prescribing or providing for the powers and duties of officers concerned in pest control;

(b) the inspection and grading according to its quality and purity of any produce at its port of shipment, and prohibiting or regulating the export of any produce which has not been so inspected and graded, or which does not conform to standards prescribed in accordance with the Commodity Boards Act or any other law;

[Cap. C17.]

(c) the structural conditions to which stores or buildings used or partly used for the inspection, grading and storage of produce in Lagos State must conform, and providing for the registration, licensing, classification and number of such stores or buildings by the former Western Nigeria Produce Inspection Service and for the conditions under which produce shall be stored;

(d) prohibiting the inspection and grading of produce on any premises in Lagos State which do not conform to the prescribed conditions, or which have not been registered;

(e) in Lagos State, prohibiting the transport of adulterated produce or produce which cannot be passed or graded in accordance with any written law, and generally prohibiting the traffic in such produce;

(f) the type of containers to be used for produce and the packing, closing, marking or sealing the same;

(g) the type of marking appliances to be used by an inspector and the designs or letters to be placed on such marking appliances and, for Lagos only, the types of seals, presses or punch dies to be used by any officer of the Produce Inspection Services and the designs or numbers to be placed on such seals, presses or dies;

(h) the form and place in which registers shall be kept by the person in charge of any store or building licensed under paragraph (c) hereof for storage of specified produce, and for the inspection of such registers by specified officers;

(i) what shall be deemed to constitute adulteration for the purposes of this Act, in respect of any description of produce;

(j) penalties for offences against any regulation made hereunder not exceeding a fine of ₦200 or imprisonment for six months or both;

(k) powers and duties of produce officers, assistant produce officers or inspectors, to permit or require the cleaning of any produce, and the removal and destruction of any extraneous matter or siftings separated from produce, and empowering pest infestation control officers to require the fumigation or treatment of produce, stores, buildings or platforms used or partly used for the storage of produce, for the purpose of decontamination;

(l) the fees to be paid including those for inspection or re-inspection, or overtime;

(m) conditions for the working of overtime by assistant produce officers or inspectors, and the officers who may issue permits for overtime work;

(n) the appointment of licensing authorities, and the grant, renewal, form and duration of any licences which may be prescribed, and the conditions which may be attached thereto;

(o) the appointment of markets and inspection stations;

(p) generally, for the better carrying into effect of the provisions of this Act;

(q) in relation to the making of regulations, the Minister shall not be bound to accept the advice of the Board.

(2) The Minister may make regulations without the advice of the Board in any case in which the matter is, in his judgement, too urgent to admit of the giving of their advice in the time within which it may be necessary to make the same.

(3) Any such regulations shall be laid before the National Assembly at the next meeting thereafter and the National Assembly may approve or revoke such regulations but any revocation shall be without prejudice to anything lawfully done thereunder or to the making of further regulations.

#### **8. Emergency orders for pest control in Lagos**

(1) In the event of an outbreak of serious pest infestation, the minister may by order notified in the Federal *Gazette* provide for the immediate steps which in his opinion are necessary in Lagos to combat such infestation and to prevent its spread, and, without prejudice to the generality of this provision, may provide by such order for the prohibition of the movement or for the destruction of any produce.

(2) An order made under this section may prescribe penalties for offences against any provision of such order not exceeding a fine of ₦200 or imprisonment for six months or both.

(3) When an order has been made under this section, the Minister shall convene a meeting of the Board within thirty days of the making of such order and shall seek the advice of the Board and if so advised shall by regulation under section 7 of this Act make such provision as may be necessary in the circumstances, and upon such provision being made by the Minister the order made under this section shall without prejudice to anything lawfully done thereunder expire unless it shall previously have expired under the provisions of the order itself.

#### **9. Export of damaged produce**

(1) Notwithstanding anything in this Act, where any produce which has been inspected and passed for export has subsequently suffered damage or deteriorated in quality to such an extent that it can no longer be made to conform to an exportable standard, the Minister or officer deputed by him in writing in that behalf may grant a special permit authorising the export of such produce upon such conditions and for such purposes as may be specified in the permit.

(2) Notwithstanding anything in this Act, where any produce has suffered damage or deteriorated in quality to such an extent that it no longer conforms to an exportable standard, the Minister or officer deputed by him in writing in that behalf may, if satisfied that such damage or deterioration was due to circumstances beyond the control of the owner of such produce, grant a special permit authorising the export of the produce upon such conditions and for such purposes as may be specified in the permit.

(3) Where produce is exported under the authority of a special permit granted under the provisions of subsection (1), any seals or other marks indicating that such produce has been graded for export shall be removed or obliterated by the person exporting the same to the satisfaction and in the presence of a produce officer, assistant produce officer, or inspector of the Produce Inspection Service of the State in which the port of shipment is situated, or in respect of Lagos, the Produce Inspection Service of Ogun, Ondo and Oyo States.

#### **10. Wrongful grading an offence**

(1) A produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector who knowingly passes or grades produce for export which is not of exportable standard shall be guilty of an offence, and liable to a fine of ₦400 or to imprisonment for one year or to both such fine and imprisonment.

(2) Where in any prosecution under this section, the person charged alleges that unauthorised use was made of any seal, press, punch-die or other sealing or marking appliance used for sealing produce or for marking containers without his consent, the onus of proving such unauthorised use shall be on him.

(3) In any prosecution under this section, it shall be sufficient for the prosecution to prove the person charged to be a produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector, and that he passed or graded the produce in question for export and that such produce was not of exportable standard, and thereupon the onus of proof that such wrong grading was not done knowingly shall be upon the person charged.

#### **11. Unauthorised use or possession of seals, etc.**

Any person who-

(a) makes unauthorised use of any prescribed type of seals, presses, punch-dies or other sealing or marking appliances used for sealing produce or for marking containers or of any apparatus for sampling or testing produce, or for extracting any of the contents of bags of produce intended for export or detained under the provisions of this Act; or

(b) is found in possession of any such article or of any article so closely resembling the same as reasonably to be mistaken therefor without lawful excuse (the onus of proving such lawful excuse being upon the person charged),

shall be guilty of an offence, and shall be liable to a fine of ₦400 or to imprisonment for one year, or to both such fine and imprisonment.

#### **12. Pest infestation**

Where any produce is found within Lagos to be infested or suspected to be infested with any pest-

(a) a produce officer may make such order as he may deem necessary for the treatment of such pest; and

(b) upon the failure of the owner of the produce to comply with any such order, the officer who made the order, or any person authorised by him in that behalf in writing, may enter upon any land or premises and carry out such measures as he may deem necessary to prevent the spread of the pest, at the owner's expense.

#### **13. Powers of entry and seizure**

(1) For the purpose of carrying out his duties under this Act, any produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector in uniform shall have power-

(a) to enter at all times which are reasonable, having regard among other things to the religious beliefs and social customs prevailing in the area in question, any building or place in which he has reason to suppose that any produce which is subject to regulations made under this Act is stored, and inspect and take samples of any such produce stored therein, whether or not such produce has previously been inspected or graded;

(b) to stop any person carrying or believed to be carrying any such produce and to examine such produce, and to stop and search any vehicle, boat, canoe or animal carrying or believed to be carrying such produce and to call upon the person in charge of such vehicle, boat, canoe or animal or, if he cannot be ascer-

tained, the person appearing to be in charge of such vehicle, boat, canoe or animal, and the person or persons in charge of such produce to unload any such produce for examination;

(c) to direct the person in charge of the vehicle, boat, canoe or animal, and the person or persons in charge of any produce seized under the provisions of paragraph (d) of this subsection, to proceed in or with the particular conveyance employed to the nearest suitable place for the purpose of depositing therein the seized produce and containers thereof;

(d) to seize and detain any produce which he reasonably suspects to have been adulterated, or in respect of which an offence against this Act appears to him to have been committed, together with any receptacle in which such produce is contained, and to seize and detain any article, register or document believed to be connected with the offence;

(e) in cases where he is satisfied that the owner of any produce which has been seized and detained under the provisions of paragraph (d) of this subsection did not know that the produce was adulterated, to permit the owner to clean the produce, and, when it has been cleaned to release the produce and any receptacle in which the produce was contained; and

(f) to call upon any person to furnish him with any information he may reasonably require for the purpose of investigating any offence against this Act.

(2) No person who obtains any information by virtue of the foregoing paragraph shall, otherwise than in the execution of his duties under this Act, disclose that information except with the permission of the Minister.

(3) Except as provided in paragraph (e) of subsection (1) of this section, any person who seizes and detains any produce or receptacle under the provisions of subsection (1) of this section shall forthwith report the fact to the nearest magistrate.

#### **14. Treatment of detained produce**

(1) Where any produce which has been seized and detained is not already packed in receptacles, a produce officer, assistant produce officer or inspector may order that it shall be so packed, and the owner of the produce and the person in charge thereof at the time of seizure shall be responsible for the provision of suitable receptacles and the labour necessary to carry out the order.

(2) Save as is provided to the contrary in this section, any produce which has been seized and detained shall be sealed in receptacles to the satisfaction of a produce officer, assistant produce officer or inspector, and shall not be removed or cleaned except with the written permission of a produce officer or inspector, or until any charge which may be brought against any person for an offence in respect of the produce or any complaint laid for the purpose of forfeiture under the provisions of subsection (2) of section 19 of this Act has been determined:

Provided that-

(a) unless a charge against some person is made, or a complaint under the provisions of subsection (2) of section 19 of this Act is laid, within the space of three months after the seizure, the seized produce shall be released from detention;

(b) notwithstanding anything contained in section 263 of the Criminal Procedure Act, where a person charged with an offence against this Act in respect of any produce has been acquitted or discharged, the Court shall not order the release of the produce until fourteen days have elapsed from the date of the judgement



of acquittal or discharge, or until a produce officer has notified the Court in writing of his intention not to institute further proceedings in respect of the produce, whichever date is the earlier;

[Cap. C41.]

(c) if a produce officer notifies the Court in writing within the said period of fourteen days of his intention to institute further proceedings in respect of the produce or to appeal against the judgement of acquittal or discharge, the Court shall not order the release of the produce pending the determination or withdrawal of such proceedings or appeal.

(3) Notwithstanding the provisions of subsection (2) of this section where a produce officer deems it advisable he may order that any produce which has been seized and detained shall be removed and kept under detention in other premises approved by him.

(4) Where the owner of the produce or the person in charge thereof considers that the condition of the produce which has been seized and detained is such that the storage thereof in that condition will result in further damage or deterioration, he may make an application in writing to a produce officer for the purpose of obtaining permission to clean the produce.

(5) Where an application has been made to a produce officer under the provisions of subsection (4) of this section, the produce officer may permit the owner or person in charge of the produce to clean it, and when the produce has been cleaned, it shall then be dealt with in accordance with the provisions of subsection (2) or (3) of this section.

(6) Where an application made under the provisions of subsection (4) has been granted, there shall be prepared in the presence of the applicant and the produce officer or an officer deputed to him in that behalf, a document showing the net weight of the produce, the number of receptacles in which it is packed, and the gross weight of any samples taken, and such document when signed by both the applicant and produce officer or his deputy shall be conclusive evidence of the particulars therein contained.

(7) Where any produce which has been seized and detained is, in the opinion of the produce officer or assistant produce officer, in such condition that its storage in that condition will result in further damage or deterioration, and whether an application under subsection (4) of this section has been made or not, a produce officer may order the person in charge of the produce or assistant produce officer or any person claiming to be the owner thereof to clean it, and may permit the temporary release of such produce for the purpose, and where such order has been given, the provisions of subsection (6) shall apply.

### **15. Power to re-examine produce**

(1) If a produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector, in his discretion, considers it advisable, he may re-examine any produce which has been inspected, passed or graded, and for such purpose may take all such steps in that behalf, including the opening of packages, as he may deem necessary:

Provided that where seals have to be removed such seals shall be removed only by officers of the State Produce Inspection Service who are carrying out duties at the port of shipment.

(2) If, upon such re-examination, the produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector finds that the produce has not been properly passed or graded or has deteriorated to such an extent as no longer to conform to the quality or grade assigned thereto on its previous examination, such produce

shall not be exported until it has been properly graded, passed and marked in accordance with the provisions of any regulations made under this Act or until a special permit for its export has been granted in accordance with the provisions of section 10 of this Act.

(3) If, upon such re-examination, the produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector finds that the produce has been

adulterated, or that any offence has been committed in respect of the produce, he shall deal with the produce in accordance with the provisions of sections 14 and 15 of this Act.

(4) If, upon such re-examination, the produce officer, assistant produce officer or inspector finds that the produce has been properly passed or graded, he shall cause it to be re-packed, sealed and marked in accordance with the provisions of any regulations made under this Act.

(5) The owner of any such produce re-examined under the provisions of this section may appeal within 21 days to the head of the Produce Inspection Service of the State which has re-examined his produce, or to an officer deputed by him in that behalf, against the decision made on either the examination or the re-examination.

## **16. Offences generally**

(1) Any person who in Lagos or at any port of shipment-

(a) hinders or molests any produce officer, assistant produce officer, chief produce inspector, senior produce inspector, inspector, or other person charged with any duties or powers under this Act or any regulations made hereunder in the exercise of any of his duties or powers;

(b) without lawful excuse, fails to comply with any order lawfully given under the provisions of this Act or of any regulations made hereunder;

(c) without lawful excuse, removes, cleans or in any way tampers with any produce or any receptacle, which has been seized or detained by a produce officer, assistant produce officer, chief produce inspector, senior produce inspector, or inspector in accordance with the provisions of this Act or of any regulations made hereunder;

(d) without lawful excuse, breaks or removes any seal placed upon a receptacle containing produce by a produce officer, assistant produce officer or inspector, whether after the grading of the produce contained therein or after the seizure and detention of such produce and receptacle in accordance with the provisions of sections 14 and 15 of this Act, or any twine, wire or other means of securing such receptacle or seal;

(e) without lawful excuse, substitutes for any produce which has been inspected and passed or graded any other produce, or adds extraneous matter or any un-inspected produce to any produce which has been so inspected and passed or graded;

(f) without lawful excuse, fails to furnish any information lawfully demanded under the provisions of this Act, or furnishes information which he knows to be false in a material particular or does not believe to be true;

(g) without lawful excuse possesses or has in his custody or under his control whether for sale or other purpose, and whether for the use or benefit of himself or any other person or whether as agent or servant of any other person -

(i) any produce which has been inspected or passed or graded, and of which the containers have been tampered with as described in this section; or

(ii) any produce which has been substituted for produce which has been passed or graded; or

(h) without lawful excuse, ships or exports or attempts to ship or export or delivers or causes to be delivered for shipment or export any produce which is not of exportable standard,

shall be guilty of an offence, and shall be liable to a fine of ₦400 or to imprisonment for one year, or to both such fine and imprisonment.

(2) In any prosecution for an offence against this section, the onus of proving the existence of a lawful excuse shall lie on the persons charged.

(3) No person shall be convicted of an offence under paragraph (g) of subsection (1) if he proves to the satisfaction of the court-

(a) that he did not know and could not with reasonable diligence have known that the produce or containers thereof had been tampered with or suffered substitution as aforesaid;

(b) that he had taken all reasonable precautions against the commission of the offence;

(c) that as soon as he discovered or became aware that an offence had been or was being committed he made immediate report in writing to a produce officer; and

(d) that on demand made by a produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector he gave all the information in his power with respect to the produce and containers thereof, the person from whom he obtained the produce and the person who conveyed or delivered it to him or to any other person on his behalf or into the possession, custody, control of himself or any other such person.

### **17. Offence in relation to samples**

Any person authorised to take samples of produce under the provisions of this Act, who employs or disposes of such samples or any part thereof for his own gain or use or for any purpose other than that for which provision is made under any written law, shall be guilty of an offence and liable to a fine of ₦400 or to imprisonment for one year, or to both such fine and imprisonment.

### **18. Offences in relation to inspection, grading, etc.**

(1) Any produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector, who without lawful excuse, proof of which shall lie upon him, delays, detains, or refuses to inspect, pass or grade produce for export shall be guilty of an offence and liable to a fine of ₦400 or to imprisonment for one year or to both such fine and imprisonment.

(2) The provisions of subsection (1) of section 22 of this Act shall not apply to a prosecution brought for an offence against this section.

### **19. Forfeiture of produce**

(1) Upon the conviction of any person for an offence against this Act in respect of any produce of which he is the beneficial owner, the Court may, in addition to any penalty

which may be imposed therefor, order that the produce in respect of which the offence

was committed and the receptacles thereof shall be destroyed or forfeited or that such produce shall be cleaned by the owner thereof to the satisfaction of a produce officer, assistant produce officer or inspector and shall thereafter be released for sale or export.

(2) Where any produce or receptacle has been seized and detained under the provisions of sections 14 and 15 of this Act and-

(a) the owner thereof is unknown or cannot be found; or

(b) the produce is adulterated or is of such inferior quality that-

(i) it cannot be cleaned to an exportable standard; or

(ii) its retention in that condition may endanger the quality of any other produce with which it may come into contact; or

(iii) a produce expert considers by reason of its inferiority that it should be destroyed,

and whether or not any person has been convicted of an offence in respect of such produce, a complaint shall, as soon as may be after the expiry of seven days from the day on which such produce was seized, be laid before the magistrate having jurisdiction in the place where such produce or receptacle is detained for the purpose only of enforcing forfeiture of such produce or receptacle, and the magistrate may cause notice to be given in such manner as he may think proper, stating that unless cause is shown to the contrary at the time and place stated in the notice such produce or receptacle may be forfeited, and at such time and place the magistrate shall, unless cause is shown to the contrary, order that the produce or receptacle shall be forfeited and disposed of in such manner as may be directed by the head of such Produce Inspection Service as in the opinion of the magistrate is appropriate.

## **20. Duty to provide labour for inspection**

Where a produce officer, assistant produce officer, chief produce inspector, senior produce inspector or inspector is about to inspect or re-inspect any produce for any of the purposes of this Act, the person in charge thereof shall provide the necessary labour to enable such inspection or re-inspection to be made.

## **21. Produce experts**

(1) The Minister may by notice in the Federal *Gazette* declare suitably experienced persons to be produce experts in respect of any kind of produce.

(2) In any proceedings for an offence against the provisions of this Act, in which the quality or condition of any produce is a fact in issue, the court may, if it thinks fit, direct any produce expert to examine such produce, or samples thereof, and to report to the Court on its quality or condition, and the written report of such produce expert shall be sufficient evidence of the facts stated therein unless the person charged requires the produce expert to be called as a witness.

## **22. Prosecutions**

(1) No prosecution (other than a prosecution by or on behalf of a law officer of the Federation or of a State) for any offence against this Act (other than an offence under

section 18 of this Act) shall be commenced except with the consent of an officer not below the rank of produce officer.

(2) A prosecution for an offence against this Act may be brought in the name of the head of the Produce Inspection Service of the Federation or of a State and may be conducted by him or by a produce officer or assistant produce officer or chief produce inspector or senior produce inspector, and any prosecutions so instituted shall be deemed *prima facie* to have been commenced with due consent.

### **23. Power to sue for fees**

(1) Any fees due under the provisions of this Act or any regulations made hereunder may be recovered as a civil debt by-

(a) the head of a Produce Inspection Service of a State; or

(b) the Nigerian Customs Service.

(2) All such fees shall be paid into the general revenue of the State concerned or of the Federation as the case may be.

### **24. Presumption as to intention to export**

In any proceedings against any person for an offence against this Act, it shall not be necessary to prove that produce, the subject of the charge, was intended for export and such produce shall be presumed to have been intended for export unless the contrary be proved.

### **25. Offences by public officer**

(1) Where any proceedings, whether civil or criminal, are brought against any public officer in respect of any act done in pursuance of any of the provisions of this Act, it shall be a good defence to show that there was reasonable and probable cause for the act in respect of which such proceedings are brought.

(2) No act or thing done by any public officer, if it was done *bona fide* for the purpose of executing this Act, shall subject him personally to any action, liability, claim or demand whatsoever:

Provided that nothing herein contained shall exempt any person from any proceeding by way of *mandamus*, injunction, prohibition or similar order.

### **26. Effect of inspection, passing or grading**

In any action relating to the quality or purity of any produce inspected and passed or graded under the provisions of this Act, the inspection, passing or grading of such produce shall not be conclusive as to the quality or purity thereof.

### **27. Repeal of No. 24 of 1950**

(1) Without prejudice to the continuance of any provision of the Produce Inspection Act 1950, which takes effect as a law enacted by each State Legislature until amended or repealed by such Legislature, such Act is repealed in so far as it applies to ports of shipment of produce and to the port of Lagos.

(2) Without prejudice to the continuance of any provision of the regulations made

under the Produce Inspection Act, which has State application until amended or revoked in accordance with any law enacted or taking effect as if enacted by any State legislature, such regulations shall continue in effect in accordance with section 6 of the Interpretation Act in respect of ports of shipment of produce and the port of Lagos until amended or revoked in accordance with section 7 of this Act

[Cap. I23.]

## SCHEDULES

### FIRST SCHEDULE

[Section 3.]

*Produce to which the Act applies*

1. Benniseed 9. Fruit Products (other than oils)
2. Capsicums 10. Ginger
3. Cassava Starch 11. Groundnuts
4. Cocoa 12. Groundnut Cake
5. Copra 13. Palm Kernels
6. Cotton Seed 14. Palm Oil
7. Cotton Lint 15. Rubber
8. Fruit 16. Soya Beans

### SECOND SCHEDULE