

**THE  
ACTS AND PROCLAMATIONS  
OF  
COCHIN**

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OF COCHIN**

**Volume XII—(1119 M.E.)**

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# THE ACTS AND PROCLAMATIONS OF COCHIN

## Volume XII—(1119 M.E.)

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## APPENDIX

### 1. THE DEFENCE OF INDIA (SECOND AMENDMENT) ORDINANCE (XLIV OF 1943)

[Law Department Notification No. 20, dated 2nd Makaram 1119  
(15th January 1944), published on page 326, Part I,  
Gazette dated 9th Makaram 1119]

The following Ordinance, dated 2nd December 1943 of the Government of India in the Legislative Department (Ordinance No XLIV of 1943) making further amendments to the Defence of India Act, 1939 is published for general information.

Whereas an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purpose herein after appearing;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5 c. 2) the Governor-General is pleased to make and promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Second Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Amendment of section 6, Act XXXV of 1939.*—In clause (5) of section 6 of the Defence of India Act, 1939 (XXXV of 1939)—

(a) for sub-clause (a) the following sub-clauses shall be substituted, namely.—

“(a) in section 53, for regulation (2) the following regulation had been substituted, namely.—

(2) Judgment of death shall not be passed on any prisoner unless all the officers present at the court martial, where the number is less than five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence”.

(b) in sub-section 2 of section 57A, for the word “commander” the words “substantive or acting commander” had been substituted;

(c) in section 58—

(i) in regulations (1) and (16) for the word “five” the word “three”, in regulation (7) for the words “the president is a captain” the words “the president is a substantive or acting commander”, in regulation (15) for the word “four” the word “two” had been substituted;

(ii) regulation (3) had been omitted”; and

(b) existing sub-clause (b) shall be relettered as sub-clause (d).

\*The Ordinance is in force *mutatis mutandis* in the State in virtue of clause 1 (1) of Proclamation VIII of 1115.

### 2. COFFEE MARKET EXPANSION ACT, 1942

[Revenue Department Notification No. 132, dated 14th Mithunam 1119  
(27th June 1944), published in Supplement to Part I, Gazette  
dated 32nd Mithunam 1119]

The Coffee Market Expansion Act, VII of 1942, as amended up to 25th March 1944 (passed by the Indian Legislature) is published below for general information.

This Act is in force in the State by virtue of the Coffee Market Expansion Act (Application) Proclamation, XXV of 1117.

## THE COFFEE MARKET EXPANSION ACT, 1942

(As amended up to 25th March 1944)

*Note.*—Amendments are shown in square brackets preceded by a figure and a letter which are abbreviations used to denote the following.—

I—Inserted by

A—Added by

O—Omitted by

S—Substituted by

1—The Coffee Market Expansion (Amendment) Act, 1943

2—The Coffee Market Expansion (Amendment) Act, 1944

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**ACT NO. VII OF 1942****[PASSED BY THE INDIAN LEGISLATURE]***Received the assent of the Governor-General on the 2nd March, 1942)*

**An Act to continue the provision made under Ordinance No. XIII of 1940 for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means**

WHEREAS it is expedient to continue the provision made under the Coffee Market Expansion Ordinance, 1940, for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means;

It is hereby enacted as follows.—

1. (1) *Short title, extent and duration.*—This Act may be called the Coffee Market Expansion Act, 1942.

(2) It extends to the whole of British India.

(3) It shall cease to be in force at the end of the twelve months commencing on the 1st day of July subsequent to the termination of the present hostilities.

2. *Declaration as to expediency of Central Government's control.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the coffee industry.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context.—

S. 1.

(a) "the Board" means the [Indian Coffee Board] constituted under section 4;

(b) "coffee" means the commodity derived from the fruit of the rubiaceae plant known by that name, and includes raw coffee, cured coffee, uncured coffee roasted coffee and prepared coffee;

(c) "Collector" means a Customs-collector as defined in clause (c) of section VIII of 1878. 3 of the Sea Customs Act, 1878, or a Collector of Land XIX of 1924. Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924, as the case may be;

(d) "curing" means the application to raw coffee of mechanical processes other than pulping for the purpose of preparing it for marketing;

(e) "curing establishment" means any place to which raw coffee is sent by a registered owner for curing, and includes any estate which the Board may declare to be a curing establishment for the purposes of this Act;

I. 2.

[(ee) "dealer" means a person carrying on the business of selling coffee, whether wholesale or by retail;]

(f) "estate" means an area administered as one unit which contains land planted with coffee plants;

(g) "Indian Coffee Cess Committee" means the Indian Coffee Cess XIV of 1935. Committee constituted under the Indian Coffee Cess Act, 1935;

(h) "internal sale quota" means that portion, stated in terms of bulk or weight, of the whole of the coffee produced by the estate in the year, which a registered estate is permitted under this Act to sell in the Indian market;

(i) "owner" includes any agent of an owner;

A. 1.

[a mortgagee in possession or a lessee;]

(j) "prescribed" means prescribed by rules made under this Act;

(k) "registered estate" means an estate in respect of which an owner is registered under sub-section (1) of section 14, and includes also any estate in respect of which an owner is required to be registered under the provisions of that sub-section;

(l) "registered owner" means an owner of a registered estate who has been or is required to be registered under sub-section (1) of section 14;

(m) "surplus pool" means the stock of coffee accumulated by the Board out of the amounts delivered to the Board under section 25;

(n) "year" means the period of twelve months beginning with the 1st day of July and ending with the 30th day of June following.

4. (1) *Constitution of the Board.*—The Board constituted by the name of the Indian Coffee Market Expansion Board under section 4 of the Indian Coffee Market Expansion Ordinance, 1940,

XIII of 1940  
S. 1:  
shall be the [Indian Coffee Board] for the purpose of this Act.

I. 1.

[(2) The Board shall consist of—

(a) five persons representing the agricultural departments of the Provincial Governments of Madras and Coorg and of the Governments of the States of Mysore, Travancore and Cochin nominated, in the case of the States' Representatives, by the Government of the State concerned, and in the other cases, by the Central Government;

(b) eleven persons representing the coffee growing industry, namely.—

(i) three persons nominated by the Government of the Mysore State;

(ii) two persons nominated by the Central Government to represent Madras and Coorg, respectively;

(iii) three persons nominated by the United Planters' Association of Southern India;

(iv) one person nominated by the Coorg Planters' Association;

(v) one person nominated by the Mysore Planters' Association;

(vi) one person nominated by the Indian Planters' Association, Mysore;

(c) four persons representing the coffee trade interests, nominated by the Central Government;

(d) one person representing the Imperial Council of Agricultural Research, nominated by the Central Government;

(e) two persons nominated by the Central Government to represent.—

(i) the coffee growing industry in the Mysore State, and

(ii) the Shevaroy Planters' Association, Yercaud.

(3) Where a member of the Board dies, resigns or is removed or ceases to reside in India, or becomes incapable of acting, the Central Government may, on the recommendation of the authority or body which was entitled to make the first nomination under sub-section (2), or where such recommendation is not made within a reasonable time, then on its own initiative, nominate a person to fill the vacancy.]

S. 1.

[(4)] No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

5. *Incorporation of the Board.*—The Board shall be a body corporate by the

S. 1.

name of the [Indian Coffee Board] having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

6. *Vesting of property in the Board.*—So long as this Act remains in force all property, movable or immovable, of or belonging to the Indian Coffee Cess Committee shall vest in the Board and all debts and liabilities of the said Committee shall be transferred to the Board, and the officers and servants of the said Committee shall be officers and servants on the staff of the Board and the said Committee shall be suspended.

7. (1) *Chairman, committees, staff and agents.*—The chairman of the Board shall be elected by the Board from among the members of the Board:

Provided that the person who is at the commencement of this Act, the chairman of the Indian Coffee Market Expansion Board constituted under the Coffee Market Expansion Ordinance, 1940, shall be the first chairman of the Board.

XIII of 1940.

(2) The Board may appoint such committees for such purposes and may employ such staff as it thinks necessary for the efficient discharge of its functions under this Act.

(3) The Board may authorise agents to discharge on its behalf its functions in relation to the marketing, storing and curing of coffee.

8. (1) *Controller and Deputy Controller of Coffee.*—The Central Government shall appoint an officer, to be called the Controller of Coffee, to exercise such powers and perform such duties under the direction of the Board as may be prescribed by the Central Government.

(2) The Central Government may appoint an officer, to be called the Deputy Controller of Coffee, to exercise such powers and perform such duties of the Controller of Coffee as may be delegated to him by the Controller of Coffee with the previous sanction of the Central Government or as may be prescribed by the Central Government.

(3) The Controller of Coffee and the Deputy Controller of Coffee may be either salaried or unsalaried; if salaried, they shall be paid by the Board such salaries as may be fixed by the Central Government.

(4) The Board shall pay to the Controller of Coffee and the Deputy Controller of Coffee such allowances as may be fixed by the Central Government.

9. *Power of Board to make bye-laws.*—The Board may, with the previous sanction of the Central Government, make bye-laws consistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely,—

(a) the procedure to be followed at meetings of the Board and at committees

(b) the powers exercisable and the duties to be discharged by the chairman of the Board and the members of the staff of the Board;

(c) the travelling or other allowances which may be drawn by members of the Board;

(d) the appointment, promotion and dismissal of members of the staff of the Board, the creation and abolition of such appointments, and the terms of service of members of the staff of the Board;

(e) any other matter in respect of which bye-laws may be made under this Act or the rules made thereunder.

10. *Dissolution of the Board.*—When the Board is dissolved by reason of this Act having ceased to be in force, the unexpended balance of all money received by

XIII of 1940.

the Board under the Coffee Market Expansion Ordinance, 1940, or under this Act except money in the pool fund shall be disposed of in such manner as the Central Government may direct. The Central Government shall disburse the money in the pool fund in the same manner as the Board would have done had it continued to exist.

#### *Duties of Customs and of Excise*

11. *Duty of customs.*—A duty of customs shall be levied on all coffee produced in India and exported from British India at the rate of one rupee per hundredweight or at such lower rate as the Central Government may, on the recommendation of the Board, by notification in the official Gazette provide.

12. *Duty of excise.*—A duty of excise shall be levied at such rate not exceeding one rupee per hundredweight as may be fixed by the Central Government on the recommendation of the Board by notification in the official Gazette on all coffee, except coffee sold and delivered before the estate became subject to the provisions of sub-section (1) of section 14, which a registered estate is permitted by the internal sale quota allotted to it to sell in the Indian market, whether such coffee is actually sold or not, and on all coffee released for sale in India by the Board from the surplus pool.

13. *Payment of proceeds of duties to the Board and manner of realisation by the Board.*—(1) The proceeds of the duty of customs levied under section 11 and of the duty of excise levied under section 12 shall be paid to the Board for credit to the general fund of the Board.

(2) On the last day of each month, or as soon thereafter as may be convenient the Collector shall pay to the Board the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

(3) The Central Board of Revenue may make rules providing, on such conditions as may be specified in the rules, for—

(a) the refund of the duty of customs where coffee is exported by land and subsequently imported into India, and

(b) the export by land, without payment of the duty of customs, of coffee which is subsequently to be imported into India.

(4) The duty of excise on coffee shall be payable by the registered owner of the estate producing the coffee and shall be realised by the Board by the deduction of the amount of the duty payable by such owner from any sum due to him on account of sales from the surplus pool. It shall be a first charge on such sum, and shall, if not capable of realisation by deduction as aforesaid, be paid to the Board by the registered owner within one month of demand by the Board or thereafter be recoverable from him as an arrear of land-revenue.

(5) The Board shall have power to adjudge by bulk the number of hundredweights contained in any quantity of uncured coffee.

(6) No action of the Board under this section shall be called in question by any court.

#### *Registration*

14. *Registration of owners of coffee estates.*—(1) Every person owning land planted with coffee plants aggregating not less than ten acres, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly

or only partly in British India, shall, unless it is already registered as required by this sub-section, before the expiration of one month from the date on which he first becomes subject to the provisions of this sub-section, apply to the registering officer appointed in this behalf by the Provincial Government to be registered as an owner and in respect of each estate owned by him.

(2) The Central Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall apply to persons owning land planted with coffee plants aggregating less than ten acres.

(3) A registration once made shall continue in force until it is cancelled by the registering officer.

(4) If any question arises whether an owner of an estate is or is not required to be registered under this section, the question shall be decided by the Controller of Coffee, subject to revision by the Central Government.

15. *Power of Provincial Government to make rules.*—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry into effect the provisions of section 14.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers, and the supply by registering officers of information to the Board.

### *Control of Sale, Export and Re-import of Coffee*

#### *S. 1.*

[16. *Fixation of prices for sale of coffee.*—(1) The Central Government may, after consultation with the Board, by notification in the official Gazette, fix the price or prices at which coffee may be sold wholesale or retail in the Indian market.

(2) No registered owner or licensed curer or dealer shall sell coffee wholesale or retail in the Indian market at a price or prices higher than the price or prices fixed under this section.]

17. *Sale of coffee in excess of internal sale quota.*—No registered owner shall, before the estate became subject to the provisions of sub-section (1) of section 14, sell or contract to sell in the Indian market coffee from any registered estate if by

#### *A. 1.*

such sale the internal sale quota allotted to that estate is exceeded: [nor shall a registered owner sell or contract to sell in the Indian market any coffee produced on his estate in any year for which no internal sale quota is allotted to the estate.]

Provided that nothing in this section shall apply to coffee sold from a registered estate in excess of the internal sale quota if such sale was in pursuance of a contract of sale entered into before the estate became subject to the provisions of sub-section (1) of section 14 and if after the estate became so subject no coffee has been sold from that estate in the Indian market except in pursuance of a contract of sale entered into before the estate became subject to the provisions of sub-section (1) of section 14.

18. *Sale of coffee how made.*—No registered owner shall sell coffee unless either—

(a) it has been cured at or is delivered to the buyer through a curing establishment licensed under section 28, or

(b) it is sold under and in accordance with the provisions of a licence procured from the Board under section 24.

19. *Storage or sale of coffee on or from unregistered estate.*—No owner of an estate not registered under this Act shall sell from or store on his estate or cause or permit to be sold from or stored on his estate any coffee not grown on the estate A. 1.

[and no owner of a registered estate shall sell from or store on his estate or cause or permit to be sold from or stored on his estate any coffee grown on any estate not registered under this Act.]

20. *Export of coffee.*—No coffee shall be exported from British India otherwise than by the Board or under an authorisation granted by the Board in the prescribed manner and in the prescribed cases, and the provisions of the Sea Customs Act, 1878, shall have effect as if the provision made by this section had been made by notification issued under section 19 of that Act:

VIII of 1878.

Provided that nothing herein contained shall apply to coffee despatched out of British India by post, or carried in a passenger's luggage for his personal use:

Provided further that the Central Government may exempt from the operation of this section, either absolutely or subject to conditions, the export of coffee from British India to an Indian State or to any foreign settlement bounded by India.

21. *Re-import of coffee exported from India.*—(1) No coffee which has been exported from India shall be re-imported into British India except under and in accordance with a permit granted by the Board.

(2) The Board may in any fit case grant such a permit and no charge shall be made therefor.

I. 1.

22. *Internal sale quota.*—(1) [Unless with the previous sanction of the Central Government the Board decides that no internal sale quotas shall be allotted,] the Board shall, as soon as may be, allot to each registered estate an internal sale quota for the year.

(2) The internal sale quota shall be a fixed percentage, common to all registered estates, of the probable total production of the estate in the year as estimated by the Board.

(3) The Board may at any time vary the internal sale quota by varying the fixed percentage common to all registered estates, or may express the whole or any part of the internal sale quota of an estate in terms of bulk instead of in terms of weight.

23. *Returns to be made by registered owners.*—(1) A registered owner shall furnish to the Board at the prescribed times and in the prescribed manner such returns as may be prescribed.

(2) If any registered owner fails to furnish the returns required under sub-I. 1. section (1) in respect of any estate, the Board may [without prejudice to any penalty to which the said owner is liable under section 37 A] refuse to allot an internal sale quota to that estate, or, where an internal sale quota has already been allotted, may cancel it.

(3) The Board may authorise an officer to visit any estate at any time to verify the accuracy of any return made under this section or to ascertain the productive capacity of the estate.

24. *License for sale of uncured coffee.*—The registered owner of any estate may, subject to the prescribed conditions and so long as the internal sale quota allotted to that estate will not be exceeded by the proposed sale, obtain from the Board a licence for the sale from that estate of uncured coffee.

25. *Surplus coffee and surplus pool.*—(1) All coffee produced by a registered estate in excess of the amount specified in the internal sale quota allotted to

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that estate [or when no internal sale quotas have been allotted to estates, all coffee produced by the estate shall be delivered to the Board for inclusion in the surplus pool by the owner of the estate or by the curing establishment receiving the coffee from the estate.

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(2) Delivery shall be made to the Board in such places [at such times] and in such manner as the Board may direct, and such directions may provide for partial delivery to the surplus pool at any time whether or not at that time the internal sale quota has been exceeded; and the coffee delivered shall be such as to represent fairly in kind and quality the produce of the estate. The Board may reject any consignment offered for delivery which does not satisfy this requirement, but shall not reject any consignment merely for a defect in curing.

(3) Coffee delivered for inclusion in the surplus pool shall upon delivery to the Board remain under the control of the Board which shall be responsible for storage, curing where necessary, and marketing of the coffee.

(4) The Board shall, with the concurrence of the Controller of

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Coffee [from time to time] prepare a differential scale for the valuation of coffee, and shall in accordance with that scale classify the coffee in each consignment delivered for inclusion in the surplus pool according to its kind and quality, and shall make an assessment of its value based on its quantity, kind and quality.

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(5) The Board may, with the consent of a registered owner, [ ] treat as having been delivered for inclusion in the surplus pool any coffee from such estate which the registered owner may agree to have so treated.

(6) When coffee has been delivered or is treated as having been delivered for inclusion in the surplus pool, the registered owner whose coffee has been so delivered or is treated as having been so delivered shall retain no rights in respect of such coffee except his right to receive the payments referred to in section 34.

26 (1) *Sales of coffee by the board.*—The Board shall take all practical measures to market the coffee included in the surplus pool, and all sales thereof shall be conducted by or through the Board.

(2) The Board may purchase for inclusion in the surplus pool coffee not delivered for inclusion in it.

### *Curing of Coffee*

27. *Coffee to be cured in licensed curing establishments.*—No registered owner shall cause or allow coffee to be cured elsewhere than in a licensed curing establishment, whether the curing establishment is maintained by himself or by another person.

28. *Licensing of curing establishments.*—Every establishment for curing coffee shall obtain from the Board a licence to operate as such.

29. *Information to be supplied to the Board in connection with curing.*—(1) A registered owner when sending coffee to a curing establishment shall report to the



Board, separately for each estate from which coffee is sent, the amount of coffee sent and the curing establishment shall, in accordance with such instructions as may be issued by the Board and having regard to the internal sale quota of the

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estate [where one has been allotted,] apportion each such consignment into two parts, one part consisting of coffee intended for internal sale and one part of coffee intended to be delivered for inclusion in the surplus pool and shall report

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to the Board the amount of coffee in each such part. [Where no internal quotas have been allotted to estates, the curing establishment shall report merely the whole amount of coffee sent in each such consignment.]

(2) A registered owner curing coffee in a curing establishment maintained by himself shall supply to the Board the information specified in sub-section (1).

(3) A curing establishment which buys or receives uncured coffee from any person shall ascertain the estate on which the coffee was produced and shall report to the Board the quantity of coffee so obtained and the estate or estates from which it came.

(4) Every curing establishment shall maintain accounts in such forms as may be required by the Board and such accounts shall be open to inspection at any time by the Board or by an officer authorised in this behalf by the Board.

*Finance*

30. *Separate funds to be maintained by the Board.*—The Board shall maintain two separate funds, a general fund and a pool fund.

31. *General Fund.*—(1) To the general fund shall be credited all proceeds of the duty of customs and the duty of excise levied under section 11 and section 12, respectively, and all receipts including receipts for licences issued by the Board other than those to be credited under section 32 to the pool fund.

(2) The general fund shall be applied to meet the expenses of the Board, the cost of such measures as it may consider advisable to undertake for promoting the sale and increasing the consumption in India and elsewhere of coffee produced in India, or for promoting agricultural and technological research in the interest of the coffee industry in India.

32. *Pool Fund.*—(1) To the pool fund shall be credited all sums realised by sales by the Board of coffee from the surplus pool.

(2) Subject to the provisions of sub-section (4) of section 13, the pool fund shall be applied only to—

(a) the making to registered owners of estates of payments proportionate to the value of the coffee delivered by them for inclusion in the surplus pool;

(b) the costs of storing, curing and marketing coffee deposited in and of administering the surplus pool.

(c) the purchase of coffee not delivered for inclusion in the surplus pool;

33. *Power to borrow.*—The board may, subject to any prescribed conditions, borrow on the security of the general fund or the pool fund for any purposes for which it is authorised to expend money from such fund, or on the security of the coffee delivered or treated as delivered for inclusion in the surplus pool for any purposes for which it is authorised to expend money from the pool fund.

34. *Payments to registered owners.*—(1) The Board shall at such times as it thinks fit make to registered owners who have delivered coffee for inclusion in the surplus pool such payments out of the pool fund as it may think proper.

(2) The sum of all payments made under sub-section (1) to any one registered owner shall bear to the sum of the payments made to all registered owners the same proportion as the value of the coffee delivered by him out of the year's crop to the surplus pool bears to the value of all coffee delivered to the surplus pool out of that year's crop.

*A. 1.* [Provided that in calculation the sum of all payments made under sub-section (1) and the value of the coffee delivered to the surplus pool out of the year's crop, respectively, any payment accepted by a registered owner as final payment in immediate settlement for coffee delivered by him for inclusion in the surplus pool and the value of any such coffee shall be excluded.]

#### *Penalties and Procedure*

35. *Failure to register.*—Any owner of a coffee estate who fails to apply for registration in accordance with section 14 shall be punishable with fine which may extend to one thousand rupees and to a further fine which may extend to five hundred rupees for each month after the first during which such failure continues.

36. *Contraventions of sections 16, 17, 18 and 19.*—(1) Any registered owner who contravenes the provisions of sub-section (2) of section 16, or section 17 or

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section 18, any licensed curer [or dealer] who contravenes the provisions of sub-section (2) of section 16, and any person who contravenes the provisions of section 19 shall be punishable with fine which may extend to one thousand rupees.

(2) When a registered owner is convicted under this section, the Board may thereafter deduct from any payment to be made under section 34 to such registered owner a sum equal to the value as estimated by the Board of any coffee unlawfully sold by him.

37. *Unlicensed curing establishment.*—If any curing establishment operates as such without a licence, the owner shall be punishable with fine which may extend to five hundred rupees.

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[37 A. *Contravention of section 23 (1)*—Any registered owner who fails to furnish the return required by sub-section (1) of section 23 as required by that sub-section shall be punishable with fine which may extend to one thousand rupees.]

38. *False returns.*—Any person who makes in any return to be furnished under section 23 or in any report to be made under section 29 any statement which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend, to one thousand rupees.

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[38 A. *Contravention of section 25.*— Any registered owner or licensed curer who fails to deliver any coffee to the Board as required by or under sub-sections (1) and (2) of section 25 shall be punishable with fine which may extend to one thousand rupees, and the Court by which such person is convicted may order the confiscation and delivery to the Board of any coffee in respect of which the offence was committed.]

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[38 B. *Powers to seize coffee withheld from inclusion in surplus pool.*—If the Board is satisfied that any coffee which is required under the provisions of

section 25 to be delivered for inclusion in the surplus pool is being or is likely to be disposed of otherwise than by such delivery, the Board may order the seizure of such coffee, and may authorise an officer of the Board to effect seizure thereof for delivery for inclusion in the surplus pool, and such authorisation shall be sufficient warrant for such officer to take all steps necessary to secure possession of the coffee.]

39. *Obstruction.*—Whoever obstructs any member or officer of the Board or any person authorised by the Board or by the Central Government in the discharge of any duty imposed on or entrusted to him under this Act, or who having control over or custody of any records fails to produce such records when required to do so or refuses information lawfully asked for by a member or officer of the Board or by a person authorised by the Board or by the Central Government to inspect such records or ask for such information shall be punishable with fine which may extend to one thousand rupees.

40. (1) *Cognizance of offences.*—No Court other than the Court of a Magistrate of the first class shall take cognizance of any offence punishable under this act:

(2) No Court shall take cognizance of an offence punishable under section 35 except on complaint made by an officer authorised in this behalf by the Provincial  
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Government [or of the offence specified in sub-section (2) of section 16 except on complaint made by an officer authorised in this behalf either by the Provincial Government or by the Board] or of an offence punishable under any other section except on complaint made with the previous sanction of the Central Government by an officer authorised in this behalf by the Board.

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[Provided that the Central Government may by notification in the official Gazette, direct that the previous sanction of the Central Government shall not be necessary for complaints in such cases or classes of cases as may be specified in the notification.]

### General

41. *Power of Board to determine amount of coffee sold by an estate.*—The Board shall have power to determine, after such inquiry as it thinks fit, the amount of coffee which has, up to the time when it first becomes subject to the provisions of sub-section (1) of section 14 been sold, or been sold and delivered in the year by any registered estate, and the amounts so determined shall be conclusive for the purposes of section 12 and section 17.

42. (1) *Control by the Central Government.*—All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The records of the Board shall be open to inspection at all reasonable time by any officer authorised in this behalf by the Central Government.

43. (1) *Appeals to the Central Government.*—Any person aggrieved by an order of the Board refusing a licence to or cancelling the licence of a curing establishment may, appeal to the Central Government.

(2) Any person making an appeal under this section shall pay a fee of five rupees which shall be credited to Central Revenue.

44. *Inspection of records.*—Any member of the Board, and any officer of the Board or other person authorised in this behalf by the Central Government or the Board, may enter any estate or any curing establishment,

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[or any place where coffee is stored or exposed for sale] and may require the production for his inspection of any records kept therein, or ask for any information

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relating to the production, storage or sale of coffee. [ ]

45. *Accounts of the Board.*—(1) The Board shall keep accounts in such manner as may be prescribed of all money received and expended by it.

(2) The accounts shall be kept separately for the general fund and the pool fund.

(3) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have power to disallow any item of expenditure which has, in their opinion, been incurred otherwise than in accordance with this Act.

(4) The Central Government may on the application of the Board allow any item of expenditure disallowed by the auditors under sub-section (3)

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46. *Inspection of records of the Board and obtaining of copies.*—Any registered owner [ ] may, subject to the prescribed conditions, inspect the records maintained by the Board and may on payment of the prescribed fee obtain copies of any proceedings or orders of the Board.

47. *Contracts.*—All contracts for the sale of coffee in so far as they are at variance with the provisions of this Act shall be void :

Provided that nothing contained in this section shall apply to contracts to which under section 47 of the Coffee Market Expansion Ordinance, XIII of 1940 1940, that Ordinance did not apply.

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[47. A. *Bar of legal Proceedings.*—No suit, prosecution or other legal proceeding shall lie against the Board or any officer of the Board for or in respect of anything in good faith done or intended to be done under this Act.]

48. *Power of the Central Government to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power rules may be made providing for all or any of the following matters, namely.—

(a) the term of office of members of the Board, the circumstances in which and the authority by which members may be removed, and the filling of casual vacancies in the Board;

(b) the conduct of business by the Board and the number of members which shall form a quorum at a meeting;

(c) the maintenance by the Board of records of business transacted by the Board, and the submission of copies thereof to the Central Government;

(d) the preparation by the Board of estimates of annual receipts and expenditure.

(e) the manner in which the internal sale quota of coffee estates shall be determined;

(f) the manner in which the Board shall exercise its powers of buying and selling coffee in the Indian market;

(g) the appointment by the Board of agents;

(h) the conditions to be fulfilled by a curing establishment before a licence to operate as such can be issued;

(i) the form of and the particulars to be contained in any returns or reports to be made to the Board under this Act;

(j) the form of, manner of application for, fees payable for, procedure in granting and conditions governing the licences and permits to be issued by the Board;

(k) any other matter except the matters referred to in section 15 which is to be or may be prescribed under this Act.

49. *Act XIV of 1935 to be deemed to be repealed.*—(1) So long as this Act remains in force the Indian Coffee Cess Act, 1935, shall be deemed to be repealed, without prejudice however to the continuing validity of any action taken by the Indian Coffee Cess Committee which is not inconsistent with the provisions of this Act.

(2) All rules made by the Central Board of Revenue under section 9 of the Indian Coffee Cess Act, 1935, shall, until replaced by rules made under sub-section (3) of section 13 of this Act, continue to have effect in respect of the duty of customs imposed by section 11 of this Act as they had effect in respect of the coffee cess imposed by that Act.

50. *Repeals and savings.*—(1) The Coffee Market Expansion Ordinance, 1940, the Coffee Market Expansion (Amendment) Ordinance, 1941, the Coffee Market Expansion (Second Amendment) Ordinance 1941, and the Coffee Market Expansion (Third Amendment) Ordinance, 1941, are hereby repealed.

(2) Without prejudice to the provisions of section 24 of the General Clauses Act, 1897.—

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(a) any trial or proceeding under the Coffee Market Expansion Ordinance, 1940, pending at the time of the repeal of the Ordinance may be continued and completed as if such trial or proceeding were a trial or proceeding under this Act;

(b) all registrations made, all licences issued and all other things done under the said Ordinance shall be deemed to have been made, issued or done under this Act.