



## TRINIDAD AND TOBAGO.

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No. 28—1940.

[L.S.]

I ASSENT,

HUBERT YOUNG,

*Governor.*

28th December, 1940.

AN ORDINANCE to provide for the setting up of a Cocoa Board and for the creation and administration of a fund for improving and assisting the cocoa industry and encouraging other industries on land now planted with cocoa which is deemed unsuitable for cocoa.

[31st December, 1940.]

Commencement.

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Cocoa Industry Short title.  
Ordinance, 1940.

Interpretation.

## 2. In this Ordinance—

“the Board” means the Cocoa Board constituted under section 4 of this Ordinance ;

“cocoa estate” means any estate or property planted wholly or partly with cocoa ;

“county” includes the Ward of Tobago ;

“duly signed” or “duly countersigned”, in relation to any document, means signed or countersigned by the person required by this Ordinance to sign or countersign the same or by his manager or, in the case of a company or corporation, by any person authorised to sign or countersign on behalf of such company or corporation ;

“the Fund” means the fund constituted under section 8 of this Ordinance ;

“Licensed Dealer” means a Licensed Dealer within the meaning of the Sale of Produce Ordinance ;

“producer”, in relation to cocoa grown in the Colony, means the person who is the owner thereof immediately before the cocoa is harvested ;

“ruling price” means the price of cocoa published in the *Royal Gazette* in accordance with the provisions of section 14 of this Ordinance ruling for the period specified in the section ;

“the Scheme” means the Scheme laid on the table of Legislative Council as Council Paper No. 61 of 1940, and includes any variation thereof adopted under section 3 of this Ordinance.

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Variations of the Scheme.

3. It shall be lawful for the Board, subject to any general or special directions of the Governor in Council from time to time to adopt such variations of the Scheme as appear desirable.

4. (1) There shall be established a Cocoa Board consisting of not less than seven members to be appointed by the Governor. Constitution of a Cocoa Board.

(2) Members of the Board so appointed shall hold office during the Governor's pleasure.

(3) The Governor may appoint from among the members of the Board a Chairman and a Vice-Chairman and may at any time determine any such appointment.

(4) In the event of the Chairman and Vice-Chairman of the Board being unable to perform the functions of their offices, the Governor may appoint any other member of the Board to officiate temporarily as Chairman.

(5) The expression "Chairman" where used hereafter in this Ordinance includes the Vice-Chairman (when performing the duties of Chairman) and a person appointed to officiate temporarily as Chairman in accordance with the preceding sub-section.

(6) Every meeting of the Board shall be presided over by the Chairman.

5. The Board may appoint and employ, at such remuneration and on such terms and conditions as the Governor may determine, a Secretary (hereinafter referred to as the "Secretary") and such officers, inspectors and other staff as may be deemed necessary for the proper carrying out of the provisions of this Ordinance. Appointment of officers by the Board.

6. The expenses of carrying out the provisions of this Ordinance, including the remuneration of the Secretary, officers, inspectors and other staff appointed by the Board, shall be paid out of the Fund. Expenses of administration.

7. (1) Decisions of the Board may be taken at meetings or, in cases in which the Chairman shall so direct, by the circulation of papers among the members: Provided that where papers are circulated the Chairman may direct that the papers shall not be circulated to any member who through interest, illness, absence from the Colony or otherwise is, in the opinion of the Chairman, incapacitated from voting on such papers. Decisions of the Board.

(2) The quorum of the Board at any meeting or for the purpose of voting on papers circulated shall be four.

(3) The decisions of the Board shall be by the majority of votes: Provided that, in any case in which the voting shall be equal, the Chairman shall have an additional casting vote.

(4) Any document purporting to record a decision of the Board and to be signed by the Chairman or Secretary, and any notification in the *Royal Gazette* purporting to record a decision of the Board, shall be sufficient proof of the decision recorded.

Constitution  
of a Fund for  
the carrying  
out of the  
Scheme.

8. (1) There shall be a Fund for the carrying out of the Scheme consisting of—

- (a) all sums which may be received by way of taxation under this Ordinance ;
- (b) all sums which, under section 5 of the Cocoa Subsidy (Special Taxation) Ordinance, 1935, are directed to be applied towards a subsidy for the relief of the cocoa industry ;
- (c) such sums as may be allocated to the said Fund by resolution of the Legislative Council or by the annual estimates of the Colony.

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(2) The Fund shall be held by the Treasurer who is hereby authorised, subject to any general or special directions of the Governor in Council, from time to time to arrange for the interim investment of any portion of the Fund which is not immediately required for the purposes of the Scheme.

Carrying out  
the Scheme.

9. (1) Subject to the general or special directions of the Governor in Council and to the provisions of this Ordinance, the Board is hereby charged with the duty of carrying out the Scheme and of applying the Fund for the purposes of the Scheme.

(2) No payment from the Fund shall be made by the Treasurer except on the authority of a voucher signed by the Chairman or Secretary.

(3) Nothing in this Ordinance shall be deemed to confer upon any person any legal right to receive any assistance, whether financial or otherwise, under the Scheme.

Cess of  
locally grown  
cocoa and  
provisions  
as to  
transactions  
in cocoa.

10. (1) If any person (hereinafter referred to as "the purchaser") shall, on or after the first day of January, 1941, acquire any cocoa from any other person (hereinafter referred to as "the vendor") knowing or having reason to believe that the vendor is the producer of the

cocoa, and if a ruling price of cocoa has been gazetted which is applicable at the time of such acquisition, the following provisions shall have effect namely:—

(a) the purchaser shall—

(i) within seven days after such acquisition pay to the Warden of the County in which the cocoa was produced or to the Treasurer in Port-of-Spain or the Sub-Treasurer in San Fernando a cess upon such cocoa calculated in the manner provided in section 15 of this Ordinance and, at the time of such payment, deliver to the said Warden, Treasurer, or Sub-Treasurer a duly signed statement substantially in the form in the First Schedule ;

(ii) at the time of such acquisition deliver to the vendor a duly signed copy of such statement ;

(b) the vendor shall, within seven days after such acquisition, deliver to the Secretary the statement, duly countersigned by the vendor, received by him in accordance with subparagraph (ii) of paragraph (a) of this sub-section.

(2) Any person who shall contravene or fail to comply with the provisions of the preceding sub-section shall be guilty of an offence against this Ordinance.

(3) Any vendor, or any servant of a vendor, who refuses to answer, or makes any false answer, to any question put to him by the purchaser or his servant for the purpose of ascertaining—

(a) the name or title and address of the vendor ;

(b) whether the vendor was the producer of the cocoa and, if so, the name or description of the cocoa estate on which the cocoa was grown ;

(c) any other information in his possession which is necessary to enable the purchaser to discharge an obligation imposed by this Ordinance,

shall be guilty of an offence against this Ordinance.

(4) If any person shall deliver any statement or copy thereof required by this section to be delivered, knowing or having reason to believe that any particulars contained in such statement or copy are false, or shall falsify any such statement or copy, such person shall be guilty of an offence against this Ordinance.

(5) For the purposes of this section, a person shall be deemed to know or have reason to believe any fact unless he proves that, after making all reasonable enquiries, he did not know or have reason to believe such fact.

Penalty.

11. If any person shall be guilty of an offence against this Ordinance, he shall be liable on summary conviction to a fine of four hundred and eighty dollars, and in default of payment to imprisonment, with or without hard labour, for six months.

Cancellation  
or suspension  
of licence.

12. If any Licensed Dealer shall be guilty of an offence against this Ordinance, it shall be lawful for the Court before which the conviction is had to cancel his licence or to suspend the same for such period as the Court may think just and any bond executed by such Licensed Dealer for the purposes of the Sale of Produce Ordinance shall become immediately due and payable and the like consequences shall ensue in relation to such bond as if such Licensed Dealer had been convicted of an offence under the Sale of Produce Ordinance.

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Recovery  
of cess.

13. Without prejudice to any prosecution which may be instituted in respect of the non-payment of any cess payable by virtue of this Ordinance, any such cess shall be a debt due to the Board and shall be recoverable by the Treasurer on behalf of the Board by civil action.

Ruling prices.

14. (1) The Board shall, as near the end of the month of December, 1940, as may be practicable, ascertain and publish in the *Royal Gazette* the average price of cocoa ruling in the Colony between the first day of the said month and the date on which the price is so ascertained.

(2) The price so gazetted shall be the price ruling between the first day of January, 1941, and the next date upon which the ruling price, ascertained in accordance with the provisions of this section, is gazetted.

(3) As near the end of each month following the month of December, 1940, as may be practicable, the Board shall ascertain and shall notify in the *Royal Gazette* the average price of cocoa ruling in the Colony between the date on which a price was last gazetted in accordance with the provisions of this section and the date on which the price is so ascertained and the price gazetted under this sub-section shall be the gazetted price ruling between the date on which the notification of such price is gazetted and the date upon which the next succeeding ruling price is gazetted in accordance with the provisions of this sub-section.

(4) Notwithstanding the preceding provisions of this section, it shall not be necessary for the Board to gazette any price which is less than the minimum price at which cess would become payable in accordance with the provisions of this Ordinance.

(5) For the purposes of this section, the expression "the average price of cocoa ruling in the Colony" shall mean the average price of estates cocoa based on such statistics as the Board may adopt.

(6) Any gazetted price shall be deemed for all purposes to have been duly and accurately ascertained in accordance with the provisions of this section.

15. (1) The cess payable by a purchaser of cocoa under this Ordinance shall be assessed at the rate specified in column 2 of the Second Schedule to this Ordinance corresponding to the price shown in column 1 of the said Schedule ruling at the time of acquisition of the cocoa by the purchaser. Assessment of cess.

(2) When the cocoa acquired is less than 100 lb. the same cess shall be paid as if the cocoa purchased was 100 lb.

(3) When the cocoa acquired is not an exact multiple of 100 lb., any excess over and above an amount representing a multiple of 100 lb. shall, for the calculation of cess, be deemed to be 100 lb.

(4) It shall be lawful for the Governor in Council, subject to confirmation by resolution of Legislative Council, to vary from time to time the scale of ruling prices and rates of cess specified in the Second Schedule to this Ordinance and, upon the publication in the *Royal Gazette* of any variation so confirmed, this Ordinance shall have effect as though the Schedule as so varied was the Second Schedule to this Ordinance.

Witchbroom.

16. (1) It shall be lawful for the Board to give directions in writing signed by the Chairman or Secretary to any Plant Protection Officer as to the exercise by that officer in relation to witchbroom of any power or discretion conferred upon him in relation to diseases and pests by the Plant Protection Ordinance, 1940, and it shall be the duty of such officer to comply with such directions.

(2) Any Plant Protection Officer acting in pursuance of directions given under this section shall be deemed for all the purposes of the Plant Protection Ordinance, 1940, to be acting under that Ordinance: Provided that—

(a) any expenses recovered under that Ordinance shall in any such case, be paid to the Fund ;

(b) any compensation payable under that Ordinance shall, in any such case, be paid from the Fund.

(3) In this section the expressions "Plant Protection Officer", "disease" and "pest" have the same meanings as in the Plant Protection Ordinance, 1940.

No. 8 of 1940.

Participation  
in the Scheme  
and refund of  
cess.

17. (1) The owner of any cocoa estate may notify the Secretary in writing on or before the last day of January, 1941, that he does not desire to participate in the benefits of the Scheme and, upon such notification, the estate shall be deemed to have been a non-participating estate with effect from the 1st January, 1941.

(2) The owner of any cocoa estate may at any time apply to the Secretary in writing for permission to withdraw from participation in the benefits of the Scheme and the Board may grant such application unconditionally or

subject to such terms and conditions as the Board may determine, and from the date on which such application is so granted, or if terms or conditions are imposed from the date of fulfilment of such terms or conditions, such estate shall be deemed to be a non-participating estate.

(3) Any cocoa estate which by the express terms of the Scheme is precluded from participation in the benefits of the Scheme shall be deemed to be a non-participating estate.

(4) The owner of any cocoa estate which in accordance with the provisions of this section is deemed to be a non-participating estate and which is not an estate precluded for the time being by the express terms of the Scheme from participating in the benefits of the Scheme, may at any time apply to the Secretary in writing for permission to participate in the benefits of the Scheme and the Board may grant such application unconditionally or subject to such terms and conditions as the Board may determine, and from the date upon which such application is granted, or if terms or conditions are imposed from the date of fulfilment of such terms and conditions, such estate shall cease to be deemed to be a non-participating estate.

(5) The Board shall, at such intervals as the Board may determine, refund to the producer cess paid in respect of cocoa grown on a cocoa estate which, at the time of payment of the cess, is deemed in accordance with the provisions of this section to be a non-participating estate. All such refunds shall be paid out of the Fund.

(6) In this section the expression "owner" in relation to a cocoa estate, includes an executor or administrator of a deceased owner, a trustee appointed by deed or will and also a receiver appointed by an order of the Supreme Court or by a mortgagee and a notification or application shall be deemed to have been given or made by the owner of a cocoa estate if it is given or made by the duly authorised attorney of the owner.

(7) An election exercised by an owner under any of the provisions of this section shall bind his successors in title.

THE FIRST SCHEDULE.

Acquired from (a)..... of (b).....  
 on.....bags of cocoa (..... b.)  
 produced on (c).....  
 Ruling price as gazetted at date of acquisition.....  
 Amount paid \$ .....  
 Deduct cess \$ .....  
 \_\_\_\_\_  
 Balance \$ .....  
 \_\_\_\_\_

Dated..... (Sgd).....  
 .....(d) of..... (e)

- (a) Name of vendor.
- (b) Address of vendor.
- (c) Name or description of cocoa estate.
- (d) State whether proprietor, manager, Secretary, Assistant, &c.
- (e) State company, firm or business name.

NOTE.—(d) and (e) need not be completed when cocoa is acquired by an individual in his own name.

## THE SECOND SCHEDULE.

1. Ruling Price per bag of 165 lb.				2. Cess per 100 lb.	
				\$	c.
Not less than	\$15.10	but less than	\$15.20	...	07
"	\$15.20	"	\$15.30	...	13
"	\$15.30	"	\$15.40	...	20
"	\$15.40	"	\$15.50	...	27
"	\$15.50	"	\$15.60	...	33
"	\$15.60	"	\$15.70	...	39
"	\$15.70	"	\$15.80	...	44
"	\$15.80	"	\$15.90	...	49
"	\$15.90	"	\$16.00	...	54
"	\$16.00	"	\$16.10	...	59
"	\$16.10	"	\$16.20	...	64
"	\$16.20	"	\$16.30	...	68
"	\$16.30	"	\$16.40	...	72
"	\$16.40	"	\$16.50	...	76
"	\$16.50	"	\$16.60	...	79
"	\$16.60	"	\$16.70	...	82
"	\$16.70	"	\$16.80	...	85
"	\$16.80	"	\$16.90	...	88
"	\$16.90	"	\$17.00	...	90
"	\$17.00	"	\$17.10	...	93
"	\$17.10	"	\$17.20	...	95
"	\$17.20	"	\$17.30	...	97
"	\$17.30	"	\$17.40	...	99
"	\$17.40	"	\$17.50	...	I 01
"	\$17.50	"	\$17.60	...	I 03
"	\$17.60	"	\$17.70	...	I 04
"	\$17.70	"	\$17.80	...	I 05
"	\$17.80	"	\$17.90	...	I 07
"	\$17.90	"	\$18.00	...	I 08
"	\$18.00	"	\$18.10	...	I 09
"	\$18.10	"	\$18.20	...	I 10
"	\$18.20	"	\$18.40	...	I 11
"	\$18.40	"	\$18.90	...	I 12
"	\$18.90	"	\$19.90	...	I 13
\$19.90 and over	...	...	...	...	I 14

Passed in Council this twenty-seventh day of December, in the year of Our Lord one thousand nine hundred and forty.

W. J. BOOS,  
Clerk of the Council.