# CHAPTER 53.

An Act to require an indication of origin to be given in the case of certain imported goods.

[15th December 1926.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Imported goods bearing name or trade mark of British manufacturer or trader not to be sold unless accompanied by indication of origin.

**1.**—(1) It shall not be lawful to sell, expose for sale, or, by way of advertising goods of some other kind, distribute, in the United Kingdom, any imported goods to which there is applied any name or trade mark being, or purporting to be, the name or trade mark of any manufacturer, dealer or trader or the name of any place or district in the United Kingdom, unless the name or trade mark is accompanied by an indication of origin.

(2) For the purposes of this section—

(*a*) a name or trade mark shall be deemed to be applied to goods if it is applied either to the goods themselves or to any covering, label, reel or other thing in or with which the goods are sold or exposed for sale; and

(*b*) the expression "trade mark" means a mark which is used upon or in connection with goods for the purpose of indicating that they are the goods of the proprietor of the mark by virtue of manufacture, selection, certification, dealing with, or offering for sale.

(3) If the Board of Trade are satisfied, after considering such representations (if any) as may be made to them by any persons appearing to the Board of Trade to have a substantial interest in the matter, that, having regard to the special circumstances of the trade, difficulties would arise if this section applied to goods of any class or description, or goods sold under any particular designation, and that public interests in the United Kingdom would not be materially prejudiced by exempting such goods from the operation of this section,

they may direct that this section shall not apply to such goods, or that goods shall not be treated as falling under this section by reason only that they are so designated. Every such direction shall be published in the London, Edinburgh, and Belfast Gazettes, and in such other manner as the Board of Trade may deem suitable.

(4) This section shall not have effect in respect of the application of a name or trade mark to articles used or to be used for any of the following purposes, that is to say, as coverings, labels, reels, or otherwise as articles in or with which goods manufactured or produced in the United Kingdom are or are to be sold or exposed for sale if the name or mark so applied is the name or trade mark of a manufacturer of or of a dealer or trader in those goods in the United Kingdom and the name or mark was applied with his consent.

(5) This section (except subsection (3) thereof) shall not come into operation until the expiration of six months from the date of the passing of this Act.

Power to require indication of origin in the case of certain imported goods.

**2.**—(1) After an enquiry in relation to goods of any class or description has on a reference from the appropriate department been held by a committee appointed for the purposes of this Act and the report of the committee on the matter has been taken into consideration by the department, that department may, unless it appears to them that the trade of the United Kingdom or the trade generally of other parts of His Majesty's dominions with the United Kingdom would be prejudiced if imported goods of that class or description for use or consumption in the United Kingdom were prohibited to be sold unless they bear an indication of origin, make a representation to His Majesty that it is desirable that an order should be made under this section, and His Majesty in Council may thereupon, subject to the provisions of this Act, make an Order prohibiting the sale, or the exposure for sale in the United Kingdom, of imported goods of that class or description unless they bear an indication of origin.

(2) The sitting of a committee shall while evidence is being taken be open to the public unless the evidence relates to matters which are, in the opinion of the committee, of a confidential character.

(3) No reference shall be made to a committee in respect of goods of any class or description unless there has been made to the department an application therefor which, in the opinion of the department, substantially represents the interests of either manufacturers, producers, dealers, traders, users, or consumers, or of any body of wage-earners.

(4) Whenever a reference to a committee is made by a department under this section, notice thereof shall be published in the London, Edinburgh and Belfast Gazettes, and in such other manner as the department may deem suitable, and no enquiry in respect of such reference shall be begun by the committee until the expiration of twenty-eight days after the date of such publication.

(5) If on an enquiry under subsection (1) of this section it appears to a committee to be desirable that any imported goods should bear an indication of origin at the time of importation, and the committee so reports to the appropriate department, that department unless, having regard to all the circumstances of the case, including the re-export trade of the United Kingdom in that class or description of goods, it considers such action undesirable, may make a representation to His Majesty that it is desirable that the goods should bear an indication of origin at the time of importation, and His Majesty may by Order in Council under this section (without prejudice to his powers under subsection (1) of this section) make provision accordingly, and if any such goods required by any such Order to bear an indication of origin at the time of importation do not at that time bear such an indication, they shall be deemed to be goods which are prohibited to be imported by virtue of section sixteen of the principal Act:

Provided that—

(*a*) Subject to compliance with such conditions as to security for the re-exportation of the goods as the Commissioners of Customs and Excise may impose, an order under this subsection shall not apply to goods imported for exportation after transit through

the United Kingdom or by way of transhipment or to goods declared on importation to be for re-exportation; and

(*b*) Nothing in this subsection shall be taken to be in derogation of anything contained in the said section sixteen.

(6) A committee after hearing persons representing such interests as may appear to the committee to be substantially affected shall, from time to time, and as soon as may be practicable in each case after an enquiry under subsection (1) of this section make reports to the appropriate department specifying the classes or descriptions of imported goods, if any (being goods to which the committee consider that it is practically possible to apply an indication of origin effectively and without injury to the goods), with respect to which, in the opinion of the committee, an Order in Council ought to be made under this section, and the committee shall if it reports that such goods should bear an indication of origin, recommend what should be the form of the indication of origin and in what manner it should be applied to the goods.

(7) Before any proceedings shall be taken on any report made by a committee in pursuance of this section, such report shall be published, and a copy of such report shall be laid before each House of Parliament, and notice of the making of such report shall be published in the London, Edinburgh and Belfast Gazettes and in such other manner as the Department may deem suitable.

(8) An Order in Council under this section shall specify in every case—

(*a*) the manner in which the indication of origin is to be applied to the goods; and

(*b*) the date on which the Order is to come into force (not being a date earlier than three months from the date of the making of the Order, except in the case of an Order revoking a previous Order either entirely or as respects some of the goods to which that Order relates, or an Order made for amending a previous Order in consequence of a direction having been given with respect to that Order under

the provisions of this Act relating to provisional exemptions); and

(*c*) whether the goods are to bear an indication of origin at the time of importation or of exposure for sale wholesale,

and any such Order may contain such other provisions as appear to His Majesty to be necessary or expedient for carrying this section into effect.

Power to grant provisional exemption from Order in Council.

**3.**—(1) If, where an Order in Council has been made under this Act with respect to any goods, it is shown to the satisfaction of the appropriate department by persons appearing to the department to have a substantial interest in the matter that the application of the provisions of the Order, or of some of those provisions, to any particular class or description of those goods has caused, or is likely to cause, injury or hardship to the said persons, or any of them, the department may direct that the Order, or any particular provisions of the Order, shall cease to apply to goods of that class or description or shall apply to such goods subject only to such modifications and conditions as the department think fit, and the Order shall, while the direction is in force, have effect subject thereto.

(2) Immediately after a direction has been given under this section the appropriate department shall cause notice thereof to be published in the London, Edinburgh and Belfast Gazettes, and in such other manner as the department may deem suitable, and shall refer to a committee for consideration the question whether the Order with respect to which the direction has been given should be amended either in accordance with the terms of the direction or otherwise with respect to the goods in question.

(3) A direction under this section may at any time be withdrawn by the appropriate department, and shall not in any case continue in force after the date on which any amending Order in Council made on the report of the committee to which the matter in question has been referred under the last preceding subsection comes into operation or after the expiration of twelve months from

the date on which the direction was given, whichever date is the earlier.

Constitution of committees.

**4.**—(1) For the purposes of this Act, there shall be two or more standing committees of which at least one shall be charged with enquiries relating to agricultural and horticultural produce and the produce of any fishing industry.

(2) Each committee shall consist of not less than three and not more than five persons, two to form a quorum and shall be appointed by the appropriate department.

(3) The names of all persons from time to time so appointed shall be published in the London, Edinburgh and Belfast Gazettes, and in such other manner as the department may deem suitable.

(4) Any person, who in the opinion of the appropriate department, is directly and substantially interested as a trader or dealer in goods of any particular class or description, or as a manufacturer of any such goods or of goods of which any such goods form part, or as a producer of any such goods, shall not act as a member of a committee charged with an enquiry in respect of goods of that class or description.

(5) The members of a committee shall hold office for such period as the department by which the committee is appointed thinks fit, and the department may from time to time fill any vacancies occurring in the membership of the committee.

(6) There shall be paid to the members of a committee such fees or other remuneration as the appropriate department, with the consent of the Treasury, may determine.

Offences.

**5.**—(1) If any person—

(*a*) sells, exposes for sale, or distributes by way of advertisement, any goods in contravention of the provisions of this Act; or

(*b*) acts in contravention of or fails to comply with any Order in Council made under this Act;

he shall, subject to the provisions of this section, be guilty of an offence against the principal Act:

Provided that—

(i) in the case of a person who is guilty of an offence against the principal Act by virtue of this section the principal Act shall have effect as if the following were substituted for subsection (3) of section two of that Act:—

"(3) Every person guilty of an offence against this Act shall be liable on summary conviction to a fine not exceeding five pounds, and in the case of a second or subsequent offence to a fine not exceeding twenty pounds and the court may in the case of a second or subsequent offence order the goods in relation to which the offence has been committed to be forfeited";

and

(ii) in the case of the sale wholesale of any goods, other than goods which by virtue of an Order in Council made under this Act are required to bear an indication of origin at the time of importation or of exposure for sale wholesale, it shall be a good defence to proceedings under this subsection if the person charged with the offence satisfies the court that the goods were sold to the purchaser on an undertaking in writing that they would be exported or sold for exportation to a place outside the United Kingdom, and any such undertaking in writing if it purports to be signed by the purchaser and specifies the usual business address of the purchaser shall be admissible as evidence of the facts appearing therein.

(2) If any person advertises or offers for sale as being goods of a particular brand or make or otherwise under a specific designation, whether by means of an illustration or by means of any written matter, any imported goods of a class or description to which an Order in Council under this Act applies, he shall, if he does not include in the advertisement or offer an indication of the origin of the goods, and subject to the provisions of this section, be deemed to have acted in contravention of an Order in Council made under this Act.

This subsection shall not apply in the case of any advertisement made, issued or published before the date on which the Order was made.

(3) Where any person sells, or exposes for sale, any goods of which any imported goods, being goods to which an Order in Council under this Act applies, form a distinguishable part, and that part is reasonably capable of having applied to it an indication of origin in manner required by the order, he shall, for the purposes of this section, be deemed to have sold, or exposed for sale, that part, and the provisions of this section shall apply accordingly.

(4) It shall not within the United Kingdom be lawful to sell or offer for sale by sample goods of a class or description to which an Order in Council under this Act applies unless the required indication of origin is applied to the samples or unless particulars corresponding to the particulars which would be contained in such an indication are communicated in writing to the person to whom the samples are submitted, and if any person acts in contravention of the provisions of this subsection he shall, subject to the provisions of this section, be deemed to have acted in contravention of an Order in Council made under this Act.

(5) A person shall not be treated as being guilty by virtue of this section of an offence against the principal Act if he proves—

(*a*) that having taken all reasonable precautions against committing such an offence he had at the time of the commission of the alleged offence no reason to suspect that the goods were goods to which this Act or an Order in Council made thereunder applied, and that on a demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained the goods; or

(*b*) that otherwise he had acted innocently.

Power of employer to exempt himself from penalty on conviction

**6.** Where an employer or principal is charged with the offence of having acted in contravention of, or failed to comply with, the provisions of this Act or any Order in Council made under this Act he shall be entitled on information duly laid by him and on giving not less

of the actual offender.

than three days' notice of his intention to the prosecution to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and, if after the commission of the offence has been proved, the employer or principal proves to the satisfaction of the court that he has used due diligence to enforce compliance with the provisions of this Act or of the Order, and that the said other person had committed the offence in question without his consent, connivance or wilful default, the said other person shall, subject to the provisions of subsection (5) of the last preceding section, be summarily convicted of the offence, and the employer or principal shall be exempt from any penalty.

The person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings:

Provided that the prosecution shall in any such case have the right to cross-examine the employer or principal if he gives evidence, and any witnesses called by him in support of his charge, and to call rebutting evidence.

Laying before Parliament and revocation and variation of Orders.

**7.**—(1) Before any Order in Council is made under the foregoing provisions of this Act, a draft of the Order shall be laid before each House of Parliament, and if either House within the next subsequent twenty days on which that House has sat next after the draft is laid before it resolves that an Address be presented to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of a new draft Order.

(2) An Order in Council made under the foregoing provisions of this Act may, on a representation to His Majesty by the appropriate department, be revoked or varied by a subsequent Order made in like manner, and the foregoing provisions of this Act with respect to the making of Orders in Council shall, subject to the necessary modifications, have effect accordingly.

Penalty on removal of indication of origin from imported goods.

**8.** If any person removes, alters or obliterates an indication of origin which in compliance with the requirements of an Order in Council made under this Act was borne by the goods at the time of their importation or exposure for sale wholesale, he shall be deemed to have acted in contravention of an Order in Council

made under this Act, unless he proves to the satisfaction of the court dealing with the case that the removal, alteration or obliteration was not for the purpose of concealing the origin of the goods at the time of their sale or exposure for sale.

Execution of Act by local authorities.

**9.**—(1) Every local authority authorised to appoint an analyst for the purposes of the Sale of Food and Drugs Acts, 1875 to 1907, may, so far as relates to any goods being foodstuffs to which an Order in Council under this Act applies, execute any of the provisions of this Act other than provisions relating to the importation of goods, and any expenses incurred by a local authority under this section shall be defrayed in the same manner as expenses incurred by the authority in executing the provisions of the said Acts.

(2) An officer of any such local authority as aforesaid, if authorised in that behalf by the authority and on production if so required of his authority, may at any time during the hours when the premises are open for business enter any premises on which he has reason to believe that there are kept for sale any imported foodstuffs to which an Order in Council under this Act applies and on paying or making tender of payment therefor take samples of any goods which appear to him to be such imported foodstuffs, and any person who obstructs an officer so authorised in the execution of the powers conferred on him by this section shall be deemed to have acted in contravention of an Order in Council made under this Act.

An officer taking a sample under this subsection shall forthwith notify the person on whose premises the sample is taken or his agent that the sample is taken in pursuance of the provisions of this Act, and shall, if required so to do at the time of giving such notification, select a second like sample or divide the sample into two parts, and shall mark and seal and leave with that person or agent either the second sample or one part of the divided sample.

(3) The Governor of Northern Ireland may by Order in Council direct, as respects any local authority in Northern Ireland, that the powers of the authority under this section shall be exercised by the Ministry of Agriculture for Northern Ireland instead of by the authority.

Interpretation.

**10.**—(1) For the purposes of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"Agricultural and horticultural produce and the produce of any fishing industry" includes all foodstuffs other than such foodstuffs as the Board of Trade, with the concurrence of the Minister of Agriculture and Fisheries may declare not to be foodstuffs for the purposes of this definition:

"Apply" in relation to an indication of origin has the same meaning as in section five of the principal Act:

"Appropriate department" means in relation to agricultural and horticultural produce and the produce of any fishing industry, the Minister of Agriculture and Fisheries, the Secretary of State for the Home Department and the Secretary of State for Scotland acting jointly, and in relation to any other goods the Board of Trade:

"Committee" means a committee appointed for the purposes of this Act:

"His Majesty's Dominions" includes territories under His Majesty's protection and such, if any, of the territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty as His Majesty may by Order in Council direct to be included in His Majesty's Dominions for the purposes of this Act:

"Imported goods" does not include—

(*a*) goods which since the date of their importation have undergone in the United Kingdom any treatment or process resulting in a substantial change in the goods; or

(*b*) goods produced or manufactured in the United Kingdom which after exportation are brought back into the United Kingdom, including any such goods which have undergone abroad any treatment or process not resulting in a substantial change in the goods:

"Indication of origin" means, at the option of the person applying the indication, either—

(*a*) in the case of goods manufactured or produced in any foreign country, the word "foreign" and in the case of goods manufactured or produced in a part of His Majesty's Dominions outside the United Kingdom, the word "Empire"; or

(*b*) a definite indication of the country in which the goods were manufactured or produced;

the indication being given, in either case, conspicuously:

Provided that, in the case of goods produced or manufactured in the United Kingdom which have undergone in any particular country abroad any treatment or process resulting in a substantial change in the goods, the indication of origin may at the option of the person applying it be given either by using in conjunction with the word "foreign" or the word "Empire," as the case requires, words descriptive of that treatment or process or by a definite indication that the treatment or process was undergone in that particular country.

"Principal Act" means the Merchandise Marks Act, 1887: 50 & 51 Vict. c. 28.

"United Kingdom" means Great Britain and Northern Ireland.

(2) Section one of this Act shall not extend to blends or mixtures, and an Order in Council made under the foregoing provisions of this Act with respect to goods of any class or description shall not extend to blends or mixtures consisting of or containing those goods unless the Order expressly so provides, and, where any Order in Council so provides, the indication of origin to be given in respect of the blends or mixtures shall, notwithstanding anything in this Act, be an indication in such form as the Order prescribes. For the purposes of this subsection the expression "blend or mixture" does not include any blend or mixture produced by a process of manufacture from materials of different kinds.

(3) For the purposes of this Act, imported goods shall be deemed to have been manufactured in the country in which they last underwent before importation a substantial change by reason of any treatment or process.

(4) In this Act the expression "sale"—

(*a*) does not include—

(i) a sale of goods for consignment by the vendor to a person outside the United Kingdom; or

(ii) a sale of second-hand goods;

(*b*) subject as hereinafter provided, includes sale wholesale as well as sale by retail, and the provisions of this Act and of any Order in Council made thereunder shall have effect accordingly:

Provided that references to exposure for sale in sections one and five of this Act or (unless the Order expressly provides to the contrary) in any Order in Council made under this Act shall not include exposure for sale wholesale by a person being a wholesale dealer;

(*c*) does not include the sale of any foodstuffs at any hotel or restaurant or other premises for consumption thereon or the sale of any foodstuffs which have undergone a process of cooking, curing or preserving in the United Kingdom.

Exercise of powers of Board of Trade under Act.

**11.** Anything authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to, or before the President, a Secretary or Assistant Secretary of the Board, or any person authorised in that behalf by the President of the Board.

Expenses.

**12.** Any expenses incurred by or in connection with any committee shall, up to such amount as the Treasury may approve, be defrayed out of moneys provided by Parliament.

Short title and application.

**13.**—(1) This Act may be cited as the Merchandise Marks Act, 1926, and shall be construed as one with the Merchandise Marks Acts, 1887 to 1911, and those

Acts and this Act may be cited together as the Merchandise Marks Acts, 1887 to 1926.

(2) This Act applies to Northern Ireland.

(3) This Act shall not apply to farm produce carried or driven by a farmer or his servants from the Irish Free State into Northern Ireland in the course of his business as a farmer.

(4) If His Majesty is pleased by Order in Council so to direct as respects goods manufactured or produced in any of the Channel Islands or in the Isle of Man, goods so manufactured or produced shall for the purposes of this Act be treated as if they were goods manufactured or produced in the United Kingdom.

(5) Any Order in Council made under this section or under section nine or section ten of this Act may be revoked or varied by another Order in Council so made.

(6) So much of this Act as enables provision to be made for requiring imported goods to bear an indication of origin at the time of importation and any Order in Council made thereunder shall have effect as if it were part of the Customs Consolidation Act, 1876, and shall accordingly apply to the Isle of Man as if it were part of the United Kingdom. 39 & 40 Vict. c. 36.

(7) Nothing in this Act shall be taken to render it lawful to describe as being made or produced in the United Kingdom any goods which by virtue of the provisions of the principal Act may not be so described.

## CHAPTER 54.

An Act to facilitate the use of wireless telegraphy by the blind. [15th December 1926.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1.** Where a person satisfies the Postmaster-General that he is a blind person within the meaning of this Act, a licence to establish, maintain and work a wireless Licences to blind persons for the purpose of