

LAWS OF FIJI

CHAPTER 155

BANANA EXPORT AND MARKETING

Ordinances Nos. 1 of 1960, 57 of 1962

AN ACT TO ESTABLISH A BANANA MARKETING BOARD AND TO PROVIDE FOR CONTROLLING THE EXPORT OF BANANAS FROM FIJI AND THE SUPPLY OF BANANAS IN FIJI IN CONNEXION THEREWITH

[8th January, 1960.]

Short title

1. This Act may be cited as the Banana Export and Marketing Act.

Interpretation

2. In this Act, unless the context otherwise requires-

"Board" means the Banana Marketing Board established by this Act;

"supplier" means a person who supplies bananas directly to the Board for export;

"inspector" means a person constituted an inspector by the terms of this Act or duly appointed an inspector by the Board.

Establishment and constitution of Banana Marketing Board

3.-(1) There is hereby established a Board to be known as the Banana Marketing Board.

(2) The Board shall consist of a Chairman and seven members all to be appointed by the Minister for a period not exceeding three years. At least five of the members shall be persons appointed to represent the interests of suppliers.

(Amended by 57 of 1962, s. 2.)

(3) In the absence of the Chairman from any meeting the members present shall appoint a deputy chairman for that meeting.

(4) The Chairman or deputy chairman shall have an original and a casting vote.

(5) The Chairman or deputy chairman and four members shall form a quorum.

(Amended by 57 of 1962, s. 2.)

(6) All orders and directions made or given by the Board shall be made or given under the hand of the Chairman.

(7) The Board may make rules governing its own procedure.

Board to be a body corporate

4.-(1) The Board shall be a body corporate under the name of the Banana Marketing Board and by that name shall have perpetual succession and a common seal. The Board may sue and be sued in respect of matters whether relating to contract, tort or otherwise, arising in connexion with the exercise of its powers or the carrying on of its operations under this Act.

(2) Service of any document on the Chairman of the Board shall be deemed to be service on the Board.

Appointment of servants

5.-(1) It shall be lawful for the Board to appoint such servants, including inspectors, as the Board may deem necessary.

(2) The Board shall notify in the Gazette the appointment of inspectors under subsection (1).

(3) Produce inspectors of the Agricultural Department shall be *ex officio* inspectors under this Act.

Liability of members

6. No member or servant of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board.

Accounts and audit

7.-(1) The Board shall keep such accounts and render such returns as the Minister may direct.

(2) The accounts of the Board shall be audited annually by an auditor appointed or nominated by the Minister.

(3) The accounts of the Board shall, as soon as may be after the close of each financial year and after audit, be published in such manner as the Minister may direct.

Report

8. The Board shall not later than the 31st day of December in each year submit to the Minister and publish in a newspaper circulating in Fiji and in such other manner as the Minister may direct a report on the operations of the Board during the year ending on the 30th day of June immediately preceding.

Income tax

9. The income of the Board shall not be liable to income tax.

Functions of the Board

10.-(1) The functions of the Board shall be as follows:-

- (a) to make the best possible arrangements for the export and marketing abroad of bananas grown in Fiji and to conduct all negotiations to that end;
- (b) to take such measures in relation to the banana industry in Fiji as may be desirable to secure an abundant and efficient supply of bananas of good quality for export;
- (c) subject to such conditions as may be laid down in this Act or any regulations made thereunder or as may be imposed by the Board, to license suppliers;
- (d) subject to such conditions as aforesaid, and to the extent of any quotas fixed by the Board, to buy all bananas of good quality properly packed in the prescribed manner which are offered for sale to the Board by licensed suppliers.

(2) The Board shall not refuse to grant a licence to a supplier except as may be provided in regulations made under this Act.

Powers of the Board

11. For the purpose of this Act, the Board may

- (a) hold land;
- (b) enter into any contract;
- (c) fix, and from time to time vary, quotas for the supply of bananas by reference to any area, period of time or otherwise;
- (d) from time to time by notice in the Gazette fix the price of bananas supplied for export;
- (e) buy, sell, grade, store, process, insure, advertise and transport bananas;
- (f) allot registered marks to suppliers of bananas for export;
- (g) borrow money, on such terms as may be approved by the Minister;
- (h) subject to such conditions as may be prescribed by regulations, cancel or suspend a supplier's licence;
- (i) by authorisation in writing permit any person to carry out any of the functions referred to in paragraphs (a), (b), (c), (d) or (e) of subsection (1) of section 12, upon

such conditions as the Board thinks fit to impose, and may, if it thinks fit, by notice in the Gazette, give a general authorisation for the export of bananas to such country as may be specified in the notice and the carrying out of any functions in connexion therewith. The Board shall give such publicity to any general authorisation given under this paragraph as it shall consider best calculated to bring it to the notice of all persons concerned.

Prohibition on purchase and export of bananas

12.-(1) No person other than the Board shall, save as agent for the Board or under an authorisation issued by the Board under the provisions of section 11-

- (a) purchase bananas for export;
- (b) export bananas;
- (c) consign bananas to any place outside Fiji;
- (d) sell or supply bananas to any person outside Fiji or to any person in Fiji as agent for, or for resale to, a person outside Fiji;
- (e) negotiate for the sale or (save as permitted in the proviso) for the supply of bananas outside Fiji:

Provided that

- (i) it shall be lawful to send as a gift to a person outside Fiji a quantity of bananas not exceeding in any one consignment two cases or such other greater or lesser amount as the Board may specify by notice in the Gazette;
- (ii) nothing in this section shall prohibit the purchase, sale or supply of bananas for taking on in Fiji as ships' stores or any negotiations for that purpose.

(2) Any person contravening or attempting to contravene any of the provisions of this section shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars. Any bananas and containers in connexion with which an offence has been committed shall be liable to be forfeited to the Board and the Board may dispose of such bananas and containers and apply the proceeds thereof towards its own funds.

Price of bananas

13. The price paid by the Board to suppliers shall be the best possible price which the Board is able to pay without incurring loss, having regard to the price received by the Board for bananas marketed by or under its direction less expenses of wharfage, port and customs service tax, and other charges incurred by the Board, and the administrative expenses of the Board. It shall be the duty of the Board to pay all suppliers an advance payment for bananas supplied to it as soon as is practicable after each shipment.

Expenses of the Board

14. From the proceeds of bananas sold by it and any other funds at its disposal the Board shall pay the expenses incurred in carrying out its duties under this Act.

Expenditure of surplus funds

15. In the event of the Board accumulating funds which in its opinion are in excess of what is required for its ordinary management, the Board may apply such excess funds in the payment of bonuses to suppliers or may, with the prior approval of the Minister, apply such excess funds to any purpose which it considers to be in the interests of the banana industry in Fiji as a whole.

Duties and powers of inspectors

16.-(1) The duties of an inspector under this Act shall be to secure the carrying out of the provisions of this Act and any regulations made thereunder.

(2) In the exercise of his duties under this Act an inspector may, where he has reasonable cause to suspect that an offence against this Act or any regulations made thereunder has occurred or is about to occur -

(a) enter and search any building or place other than a dwelling-house, and stop, board and search any vessel or vehicle which he reasonably suspects of being concerned in such offence;

(b) seize and detain bananas and containers which he reasonably suspects of being the subject matter of such offence, for such period as may be necessary to prevent them from being illegally consigned or exported or supplied or sold for export;

(3) It shall be lawful for an inspector to give any person engaged in the packing or transport of bananas directions as to the handling of or dealing with such bananas for the purpose of preventing injury or contamination and ensuring that the prescribed standards of quality are attained.

(4) Any person who resists or obstructs any search, seizure, or detention, or refuses or neglects to obey a direction given under the provisions of subsection (3) shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars.

Appeal

17. Any person to whom the Board refuses to issue a licence under paragraph (c) of section 10 or whose licence is cancelled or suspended by the Board, and any person who is aggrieved by the imposition of any condition in his licence or who is aggrieved by any other matter in respect of which a right of appeal is conferred by regulations made under this Act may, within thirty days, or such longer time as the Minister may for good cause allow, after such refusal, cancellation, suspension or imposition of a condition or happening or other event of which he is aggrieved, appeal to the Minister, whose decision shall be final.

Regulations

18. The Minister may make regulations for the purpose of carrying out the provisions of this Act and in particular for prescribing -

- (a) the manner and conditions of licensing of suppliers and the fees payable for such licences;
- (b) the conditions subject to which and the manner in which licences may be refused, cancelled or suspended;
- (c) the method of determining by quota the quantity of bananas which may be supplied for export by any licensed supplier or from any part of Fiji;
- (d) the standards of quality of bananas and of containers and the manner of inspection thereof;
- (e) penalties for failure by suppliers to fulfil their estimates;
- (f) the provision of and the specifications for the places where bananas are packed;
- (g) the allocation of registered marks for suppliers, the use of such marks and offences in relation thereto;
- (h) the time and method of picking, packing and transporting bananas and the allocation of shipping space and any arrangements which are necessary or desirable in connexion therewith;
- (i) appeals by persons aggrieved by decisions of the Board or any of its officers or servants;
- (j) any matter which is required or permitted under this Act to be prescribed by regulations;
- (k) any other matter which may be necessary or desirable for the betterment or furtherance of the banana industry in Fiji, or the marketing of bananas outside Fiji, or for carrying out any other function conferred on the Board by or under this Act.

Controlled by Ministry of Agriculture and Fisheries

Subsidiary Legislation

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