

THE COCOA INDUSTRY BOARD ACT
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THE COCOA INDUSTRY BOARD ACT

[1st August, 1957.]

Laws
21 of 1957,
61 of 1958.
Acts
41 of 1963,
3 of 1965,
42 of 1969
3rd Sch.
2 of 1991.

1. This Act may be cited as the Cocoa Industry Board Act. Short title.

Preliminary

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

“Board” means the Cocoa Industry Board established by this Act;

“the former Board” means the Cocoa Marketing Board constituted and appointed under the Cocoa Marketing Law (hereby repealed);

“chairman” means the chairman of the Board and includes the acting chairman;

“cocoa” means the fruits of the *Theobroma Cocoa* and its allied species, whether in the pod or pulp or separated, and whether cured or uncured, ripe or unripe, wet or dry or fermented or unfermented;

“cocoa product” means any article the principal constituent of which is cocoa;

“cocoa dealer” means a person authorized by law to purchase or sell cocoa; 2/1991
S. 2 (a)

“cocoa works” means any plant, machinery, appliances, mills or apparatus, whether similar to the foregoing or not, and any premises, used for fermenting, curing, drying, cleaning, processing or

COCOA INDUSTRY BOARD

preparation for sale of any cocoa beans or for the manufacture of any cocoa product;

“export” means export from the Island to any place outside the limits of the Island;

41/1963
S. 2.

“financial year” means the twelve months ending on the 30th September in any year;

“member” means a member of the Board and includes the chairman;

“Minister” means the Minister responsible for the cocoa industry;

“nominated member” means a member appointed upon the nomination of a body authorized by this Act to nominate a member;

“nursery” means any place, nursery or propagator used for the production or cultivation of cocoa plants or cocoa seedlings;

“purchase” includes exchange or barter whether for goods or services and any agreement or contract of purchase, exchange or barter;

“sell” includes exchange or barter whether for goods or services and any agreement or contract to sell, exchange or barter.

Establishment and Functions of Board

Establish-
ment and
constitution
of the Board.

3.—(1) There shall be established for the purposes of this Act a body to be called the Cocoa Industry Board.

[The inclusion of this page is authorized by L.N. 90/1993]

(2) The Board shall consist of seven members appointed in manner following, that is to say—

- (a) four by the Minister of whom one shall be appointed by the Minister to be the chairman; 3/1965
S. 2 (a)
- (b) three by the Minister, being persons actively engaged in the growing of cocoa and selected from a panel of five persons nominated by the body which the Minister recognizes as representative of the growers of cocoa.

(3) The appointment of every member of the Board shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

(4) Every member shall be eligible for reappointment.

(5) If the chairman is granted leave of absence in accordance with the provisions of subsection (11), or is unable to act, the Minister may appoint a person, whether or not such person is already a member of the Board, to act temporarily in the place of the chairman.

(6) If a nominated member is granted leave of absence in accordance with the provisions of subsection (11), or is unable to act, the body by which he was nominated may nominate a suitable person for appointment by the Minister to act temporarily in the place of such member.

(7) If any member other than a nominated member is granted leave of absence in accordance with the provisions of subsection (11), or is unable to act, or has been appointed to act as chairman, the Minister may appoint a suitable person to act temporarily in place of such member.

(8) Any member of the Board, other than the chairman, may at any time resign his office by instrument in

writing addressed to the Minister and transmitted through the chairman and, upon the date of the receipt by the chairman of such instrument, such member shall cease to be a member of the Board.

(9) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument.

(10) The Minister may at any time revoke the appointment of any member of the Board if he thinks it expedient so to do.

(11) The Minister may, on the application of any member, grant to such member leave of absence for any period not exceeding six months.

(12) Any member of the Board shall be deemed to have vacated his office if—

- (a) he becomes insane; or
- (b) he is adjudicated a bankrupt or makes any composition or arrangement with his creditors; or
- (c) by instrument in writing addressed to the Minister through the chairman of the Board, or, if he is the chairman of the Board, by instrument in writing addressed to the Minister, he tenders his resignation as a member of the Board.

(13) The appointment, resignation, revocation of appointment or death of any member of the Board shall be notified in the *Gazette*.

Incorporation

4.—(1) The Board shall be a body corporate having perpetual succession and a common seal, with power to purchase, lease or otherwise acquire, hold and dispose of land and other property of whatever kind.

(2) The seal of the Board shall be kept in the custody of the chairman or the secretary of the Board and may be affixed to instruments pursuant to a resolution of the Board and in the presence of the chairman, one other member and the secretary.

(3) The seal of the Board shall be authenticated by the signatures of the chairman and the secretary of the Board and such seal shall be officially and judicially noticed.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman or any member of the Board authorized to act in that behalf or the secretary of the Board.

(5) The Board may sue and be sued in its corporate name and may for all purposes be described by such name, and service upon the Board of any notice, order or other document shall be executed by delivering it to, or by sending it by registered post addressed to, the secretary of the Board at the office of the Board.

5.—(1) It shall be the duty of the Board—

**Functions of
the Board.**

- (a) to promote the interests and efficiency of the cocoa industry of the Island, to assist in its development and to promote the welfare of persons engaged in that industry;
- (b) to secure the most favourable arrangements for the purchase, handling, marketing, sale, importation and exportation of cocoa;
- (c) upon being required to do so by the Minister, to make recommendations to the Minister as to any matter directly or indirectly affecting, relating

to, or connected with, the cocoa industry or persons engaged in that industry;

- (d) to perform such other duties in relation to or connected with the cocoa industry or persons engaged in that industry as the Minister may require to be performed by the Board.

(2) Subject to the provisions of this Act, the Board shall have power, for the purpose of discharging any of its functions under this Act, to do anything and to enter into any transaction which, in the opinion of the Board, is necessary to ensure the proper discharge of its functions.

(3) The Board may from time to time with the approval of the Minister enter into any arrangement with the government of any country, or with any department, authority or person in any country, for, or in connection with, any of the purposes of this Act.

(4) In particular and without prejudice to the generality of the provisions of subsections (1) and (2), the Board shall have power—

- (a) to establish, maintain and operate any nurseries;
- (b) to import, cultivate, sell, give away, distribute, export or otherwise dispose of any cocoa seedlings or cocoa plants;
- (c) to establish, maintain and operate any cocoa plantations or cocoa works;
- (d) to cultivate, dry, cure, clean or process in any other manner any cocoa and manufacture any cocoa product and purchase, prepare for market, store, transport, distribute, sell or export any cocoa or any cocoa product;
- (e) to establish, maintain or operate research stations for—

- (i) investigating the cause, incidence, prevention, control or eradication of any disease or pest likely to be prejudicial to the interests of the cocoa industry;
- (ii) investigating the types of cocoa which may most advantageously be cultivated in the Island and the conditions under which and the manner in which such cocoa may most advantageously be cultivated;
- (iii) investigating the conditions under which and the manner in which cocoa may most advantageously be cured, dried, cleaned, processed, stored, prepared for market, transported or exported;
- (iv) improving the yield or other economic value of cocoa or of any type of cocoa;
- (v) investigating the types of cocoa products most suitable for manufacture in the Island and the conditions under which and the manner in which any such products may be most advantageously manufactured, stored, processed, prepared for market, transported or exported;

- (vi) investigating any other matter the investigation of which may in the opinion of the Board be necessary or expedient in the interests of the cocoa industry;
- (f) to do any of the acts or things referred to in paragraphs (a) to (e) (both inclusive) on behalf of or as agent for or in partnership with any other person, or finance the doing of any such acts or things by any other person;
- (g) to appoint any person to examine cocoa in any premises licensed or used for the purpose of storing, curing, fermenting or buying cocoa and to authorize such person to enter into any premises in which it may be suspected that cocoa is stored or handled, and to seize any cocoa found in such premises which in the opinion of such person is in such a condition as to be absolutely unfit for purchase, sale, exportation or distribution, or to order the seizure of the same. Such seizure shall be carried out under his superintendence by a constable:

Provided that forthwith upon the seizure of any cocoa in pursuance of the authority conferred by this paragraph, the person appointed shall report such seizure to an Inspector of Agricultural Produce who may, in accordance with section 29 of the Agricultural Produce Act, condemn and order the destruction of such cocoa.

(5) With the approval of the Minister the Board may lend money to any person for the doing of any of the acts or things referred to in paragraphs (a) to (e) (both inclusive) of subsection (4), or guarantee or give security (whether for reward or otherwise) for the repayment of any moneys borrowed by any person other than the Board, from any other person for the doing of any of the acts or things referred to in the said paragraphs (a) to (e) (both inclusive) of subsection (4).

(6) The Board with the prior approval of the Minister may from the funds at its disposal or from its reserves pay to growers in respect of cocoa purchased by the Board such sums upon such conditions as the Board thinks fit.

61/1958
S. 2.

2/1991
S. 3(b)(i).

6.—(1) Notwithstanding anything contained in the Agricultural Produce Act, no person shall purchase or export any cocoa except the Board, a cocoa dealer or a person engaged in the manufacture of cocoa products.

Restrictions
on purchase
and export
of cocoa.
2/1991
S. 4(a).

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence against this Act and shall on summary conviction before a Resident Magistrate be liable for a first offence to a fine not exceeding ten thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding six months and for a second or subsequent offence to a fine not exceeding ten thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months or to both such fine and imprisonment.

2/1991
S. 4(b).

2/1991
S. 4(b).

(3) Where an offence against this section committed by a body corporate is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences.

7. Any person who falsely holds himself out or represents himself as being—

(i) a cocoa dealer; or

(ii) a person acting under the written instructions of the Board,

shall be guilty of an offence against this Act and shall on summary conviction thereof before a Resident Magistrate be liable to a fine not exceeding ten thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding six months or to both such fine and imprisonment.

2/1991
S. 5 (c).

Regulations.

8.—(1) The Board may, with the approval of the Minister, make regulations—

(a) providing for the constitution of advisory committees of cocoa growers, cocoa dealers, manufacturers of cocoa products or other persons interested in the cocoa industry and for the functions to be performed by such committees and the appointment of the members of such committees and the conduct of business and procedure to be followed at meetings of such committees;

- (b) providing for the registration, subject to such exemptions as may be specified—
- (i) of all nurseries or any particular class of nursery;
 - (ii) of all cocoa growers or any particular class of cocoa growers;
 - (iii) of all cocoa works or any particular class of cocoa works;
 - (iv) of all dealers or of any particular class of dealers in cocoa;
- (c) providing for the keeping of any register pursuant to the provisions of paragraph (b) and the form of any such register and the procedure to be followed in relation to the registration of any person or undertaking required to be registered pursuant to such paragraph and the fees to be paid in respect of such registration;
- (d) *[Deleted by Act 2 of 1991.]*
- (e) *[Deleted by Act 2 of 1991.]*
- (f) regulating the operation of any cocoa works operated by the Board;
- (g) *[Deleted by Act 2 of 1991.]*
- (h) *[Deleted by Act 2 of 1991.]*
- (i) *[Deleted by Act 2 of 1991.]*

2/1991
S. 6(a)(iii).

(j) *[Deleted by Act 2 of 1991.]*

2/1991
S. 6 (a) (iv).

(k) prescribing, for purposes of the export trade, the grades and quality of cocoa to be exported;

(l) *[Deleted by Act 2 of 1991.]*

2/1991
S. 6 (a) (v).

(m) regulating the delivery points of any cocoa being purchased by the Board and the person to whom delivery of such cocoa may be made;

(n) prescribing, subject to such exemptions as may be specified, the records to be kept by any person who is required pursuant to paragraph (b) to be registered or who has control of any undertaking so required to be registered;

(o) prescribing, subject to such exemptions as may be specified, the returns to be made by any person who is required to be registered pursuant to the provisions of paragraph (b) or who has the control of any undertaking so required to be registered and the time at which and the form in which any such returns are required to be made and the particulars to be contained in such returns;

(p) requiring, subject to such exemptions as may be specified, any person who is required pursuant to the provisions of paragraph (b) to be registered or who has the control of any undertaking so required to be registered, to furnish to the Board or to some person designated by the Board such information in relation to the growing, picking, fermenting, curing, drying, cleaning, processing, transporting, distributing, purchase, sale or manufacture of any cocoa plants, cocoa seedlings, cocoa

or cocoa products in such form as may be prescribed;

(q) [*Deleted by Act 2 of 1991.*]

(r) prescribing the penalties for any contravention of any regulations made under this section;

(s) prescribing the form in which and the time within which any person aggrieved by any decision of the Board may appeal to the Minister against such decision;

(t) [*Deleted by Act 2 of 1991.*]

(2) Notwithstanding the provisions of section 29 of the Interpretation Act, regulations made under this section may prescribe greater penalties than those specified in the said section 29, so, however, that the maximum penalty that may be imposed by any such regulations shall be a fine of one thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding six months, or to both such fine and imprisonment. 2/1991
S. 6(b).

(3) All regulations made under this section shall be subject to negative resolution. 42/1969
3rd Sch.

9.—(1) Subject to subsection (2), the Board may impose a cess— Cess.
2/1991
S. 7.

(a) on the proceeds of the sale by the Board of any cocoa supplied to the Board by a cocoa dealer; or

(b) in respect of any services rendered by the Board in the exercise of its functions relating to the quality of cocoa exported from Jamaica, so, however, that

the amount of any cess imposed pursuant to this paragraph shall not exceed the cost of such services.

(2) No cess imposed under subsection (1) shall be of any effect unless and until approved by the Minister by order.

Minister
may issue
general
directions in
matters of
policy.

10. The Minister may, after consultation with the chairman, give to the Board directions of a general character as to the policy to be followed by the Board in the exercise and performance of its functions having regard, in particular, to the necessity for maintaining essential supplies and protecting the interests of the consumer and the producer.

Appeal to
Minister
from deci-
sion of the
Board.

11.—(1) Any person aggrieved by any decision of the Board may appeal to the Minister in the prescribed manner.

(2) The Minister shall consider every appeal made under subsection (1) at such time and in such manner either in the presence or absence of the appellant and shall make such order in relation to such appeal as the Minister may think fit.

(3) Every decision of the Minister upon any appeal made pursuant to the provisions of this section shall be final and shall not be questioned in any legal proceedings.

Funds and
resources
of the
Board.

12. The funds and resources of the Board shall consist of—

- (a) such sums as may be provided annually for the purpose in the Estimates of Revenue and Expenditure of the Island;
- (b) all sums received by the Board for the sale of cocoa;

- (c) all sums collected under the authority of regulations made under this Act;
- (d) sums borrowed by the Board for the purpose of meeting any of its obligations or discharging any of its functions;
- (e) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its powers and duties.

13.—(1) Subject to the provisions of subsection (2), the Board may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

Borrowing
powers.

(2) The power of the Board to borrow shall be exercisable only with the approval of the Minister, as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected, and an approval given in any respect for the purpose of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

(3) In this section, the word “borrow” with its grammatical variations and cognate expressions, includes obtaining advances.

14.—(1) With the approval of the House of Representatives, the Minister may guarantee, in such manner and on such conditions as he may think fit, the payment of the principal and of interest on any authorized borrowings of the Board.

Guarantee
by Minister
of borrow-
ings by the
Board and
repayment
of sums
issued
to meet
guarantees.

(2) Where the Minister is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall

direct the repayment out of the Consolidated Fund and assets of this Island of the amount in respect of which there has been such default.

(3) The Board shall make to the Accountant-General, at such times and in such manner as the Minister may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Accounts
and audit.

15.—(1) The Board shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by an auditor to be approved by the Minister.

(2) The members, officers and servants of the Board shall grant to the auditor appointed to audit the accounts of the Board under the provisions of subsection (1) access to all books, documents, cash and securities of the Board and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Board.

(3) The Board may write off bad debts.

(4) The Board with the prior approval of the Minister in every case may from the funds at its disposal from time to time contribute such sums as it thinks fit for any purpose or purposes likely in the opinion of the Board to benefit the cocoa industry of the Island, including the organization of growers associations.

(5) If in respect of any financial year there shall be in the hands of the Board any sum of money by way of surplus over and above the expenditure of the Board for that financial year (after adequate provision has been made for depreciation of the fixed assets of the Board and for outstanding commitments according to normal commercial practice) the Board shall apply such sum to the creation of a reserve fund to be applied to and in connection with the purchase by the Board of cocoa at any time in the future and to the stability of the prices to be paid by the Board for such cocoa, so, however, that the Board may, with the prior approval of the Minister, apply such sum or any part thereof to any purpose or purposes likely to improve, develop and extend the cocoa industry of the Island.

2/1991
S. 8.

16.—(1) Within four months after the end of each financial year the Board shall prepare and present to the Minister a report of its proceedings during that year, including a statement of its accounts for that year, audited in accordance with the provisions of section 15.

Annual report and estimates.

41/1963
S. 3 (a).

(2) A copy of such report together with a copy of the auditor's report shall be laid on the Table of the House of Representatives and of the Senate and shall be published in the *Gazette*.

(3) The Board shall, on or before the thirtieth day of June in each year, submit to the Minister for approval, its estimates of revenue and expenditure in respect of the period commencing on the first day of October next following and ending on the 30th day of September of the subsequent year, and shall during that year submit to the Minister for approval any estimates of further expenditure as may become necessary.

41/1963
S. 3 (b).

Miscellaneous

Procedure
at meetings.

17.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such place and time and on such days, as the Board may determine.

(2) The chairman may at any time call a special meeting of the Board and shall call a special meeting within seven days of a requisition for that purpose addressed to him by any two members of the Board.

(3) The chairman shall preside at all meetings of the Board at which he is present, and in the case of his absence the members present and constituting a quorum shall elect one of their number to act as chairman of the meeting.

(4) At any meeting of the Board four members shall form a quorum for the transaction of business.

(5) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal, the chairman of the meeting shall have a casting vote.

(6) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairman as soon as practicable thereafter at a subsequent meeting.

(7) Subject to the provisions of this section, the Board shall have power to regulate its own proceedings.

Power to
delegate.

18. Subject to the provisions of this Act, the Board may delegate to any member, or committee, or to any of its officers or servants the power and authority to carry out, on its behalf, such duties as the Board may determine.

19.—(1) The Board may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a secretary and such other officers and servants as it deems necessary for the proper carrying out of the provisions of this Act:

Appoint-
ment of
officers and
servants.

Provided that no post shall be created carrying a salary in excess of two thousand dollars per annum unless with the prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Island to any office with the Board:

Provided that in relation to pension, gratuity, allowance, and to other rights as a public officer such officer shall be deemed to be in the service of the Island while so employed.

20. No act done or proceedings taken under this Act shall be questioned on the ground—

Protection
of the
Board.

- (a) of the existence of any vacancy in the membership of, or any defect in the constitution of, the Board; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

21.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

Protection
of members
of the
Board.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this section the Board shall be liable to the extent that it would be if the member was a servant or agent of the Board.

Remunera-
tion of
members.

22. The Board shall pay to the chairman and other members of the Board such remuneration and allowances, if any, as the Minister may determine.

Minutes
receivable in
evidence.

23. Minutes made of meetings of the Board shall, if duly signed by the chairman, be receivable in evidence in all legal proceedings without further proof and every meeting of the Board in respect of which minutes have been so signed shall be deemed to have been duly convened and held and all the members present thereat to have been duly qualified to act.

Exemption.

24.—(1) This Act shall not apply to the sale of cocoa by a producer to any person *bona fide* for domestic use by such person.

(2) If cocoa is purchased from a producer by any person in excess of a quantity of ten pounds, it shall be presumed that such cocoa is not purchased for domestic use by such person, unless the contrary is shewn.