

THE TOBACCO INDUSTRY REGULATION ACT

Acts
24 of 1967,
2 of 1975.

[8th July, 1970.]

1. This Act may be cited as the Tobacco Industry Regulation Act. Short title.

2. In this Act—

Interpre-
tation.

“Authority” means the Tobacco Industry Control Authority established under section 3;

“chairman” means the chairman of the Authority and includes any person for the time being performing the functions of chairman;

“functions” includes duties and powers;

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

“tobacco dealer” means any person who purchases tobacco for resale or for processing or for the manufacture of any tobacco product;

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

“tobacco works” means any plant, machinery, appliances or other apparatus whether similar to the foregoing or not, and any premises, used for curing or processing tobacco or for the manufacture of tobacco products.

3.—(1) There shall be established a body to be called the Tobacco Industry Control Authority which shall be a body corporate with perpetual succession and a common seal and with power to acquire, hold and dispose of property,

Establish-
ment and
incorpora-
tion of
Tobacco
Industry
Control
Authority.

to enter into contracts, to sue and be sued in its said name and to do all things necessary for the purposes of this Act.

Schedule.

(2) The provisions of the Schedule shall have effect as to the constitution, operations and expenses of the Authority and otherwise in relation thereto.

(3) The seal of the Authority shall be authenticated in manner prescribed in the Schedule and shall be judicially and officially noticed.

Front
of the
Authority

4.—(1) It shall be the duty of the Authority—

- (a) to promote the interests and efficiency of the tobacco industry of Jamaica, 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 production, handling and marketing of tobacco;
- (c) to perform such other duties in relation to, or connected with, the tobacco industry or persons engaged in that industry as the Minister may require to be performed by the Authority.

(2) Subject to the provisions of this Act, the Authority 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 Authority, is necessary to ensure the proper discharge of its functions.

(3) In particular and without prejudice to the generality of the provisions of subsection (2) the Authority shall have power—

- (a) to establish, maintain and operate nurseries;
- (b) to establish, maintain and operate tobacco plantations or tobacco works;

- (c) to cultivate, cure or process tobacco and manufacture any tobacco product, and purchase, prepare for market, store, transport, distribute, sell or export any tobacco or tobacco product;
- (d) to establish, maintain or operate research stations for undertaking investigations into any matter relating to the development of the tobacco industry.

4A.—(1) Subject to the provisions of subsection (2), the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

Borrowing
powers.
2/1975
S. 2.

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

4B.—(1) The Minister may from time to time make advances to the Authority out of moneys provided by Parliament for the purpose.

Advances
and guaran-
tee of
borrowings.
2/1975
S. 2.

(2) With the approval of the House of Representatives the Minister responsible for finance may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Authority made otherwise than by way of advance under subsection (1).

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or the payment of interest guaranteed under the provisions of this section he shall direct the

repayment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

Repayment
of, and
interest on
advances
and sums
issued
to meet
guarantee.
2/1975
S. 2.

4C. The Authority shall make to the Accountant-General, at such times and in such manner as the Minister or other person designated by the Minister may direct, payments of such amount as may be so directed in or towards repayment of advances made to the Authority under subsection (1) of section 4B and of any sums issued in fulfilment of any guarantee given under that section, and payments of interest on any sum outstanding for the time being in respect of such advances and of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

Regula-
tions.

5.—(1) The Authority may, with the approval of the Minister, make regulations—

- (a) providing for the registration, subject to such exemptions as may be specified—
 - (i) of all tobacco growers or any particular class of tobacco growers;
 - (ii) of all tobacco dealers or any particular class of tobacco dealers;
 - (iii) of all nurseries or any particular class of nursery;
 - (iv) of all tobacco works or any particular class of tobacco works;
- (b) providing for the keeping of any register pursuant to the provisions of paragraph (a) 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;

- (c) regulating the operation of any nursery or of any tobacco works;
- (d) prohibiting, restricting or regulating, subject to such exemptions as may be specified, the cultivating, curing, processing in any manner, preparing for market, storing, packing, transporting, distributing, purchase or sale of any tobacco;
- (e) prescribing the grades and types and quality of tobacco and of any tobacco product;
- (f) prescribing the prices to be paid on the sale of any grade, type or quality of tobacco, so, however, that different prices may be fixed in respect of the same grade, type or quality of tobacco if delivered at different delivery points or in respect of the same grade, type or quality of tobacco purchased or sold by dealers of different categories;
- (g) prescribing, subject to such exemptions as may be specified, the records to be kept by any person who is required pursuant to paragraph (a) to be registered or who has control of any undertaking so required to be registered;
- (h) 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 (a) or who has the control of any undertaking so required to be registered or who is liable to pay any cess under this Act 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;

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- (i) requiring, subject to such exemptions as may be specified, any person who is required pursuant to the provisions of paragraph (a) to be registered or who has the control of any undertaking so required to be registered or who is liable to pay any cess under this Act, to furnish in the prescribed form to the Authority or to some person designated by the Authority such information in relation to the cultivating, curing, processing, transporting, distributing, purchase or sale of any tobacco plants, tobacco seedlings or tobacco as may be prescribed;
- (j) providing for the entry at all reasonable times by persons appointed by the Authority upon any land on which tobacco is grown or upon any premises used or believed by the Authority to be used or to be about to be used for any purpose connected with the processing of tobacco or the storage, purchase, sale, export or distribution of any tobacco;
- (k) prescribing the penalties for any contravention of any regulations made under this section;
- (l) prescribing the form in which and the time within which any person aggrieved by any decision of the Authority may appeal to the Minister against such decision;
- (m) providing for the collection of any cess imposed under section 6.

(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 two hundred dollars and in default of payment

imprisonment with or without hard labour for a term not exceeding six months, or both such fine and imprisonment.

(3) Regulations made under this section shall be subject to negative resolution.

6.—(1) The Minister may by order impose upon the proceeds of the sale by any person in Jamaica of any tobacco or tobacco product whether such sale takes place in Jamaica or elsewhere, a cess at such rate as the Minister may approve on the recommendation of the Authority. Cess.

(2) The amount of any cess under subsection (1) shall when collected be paid to the Authority.

7. The Minister may, after consultation with the chairman, give to the Authority directions of a general character as to the policy to be followed by the Authority in the performance of its functions and the Authority shall give effect to such directions. Minister may issue general policy directions.

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

(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.

SCHEDULE

(Section 3)

- Appointment of members.
2/1975
S. 3(a).
1. The Authority shall consist of not less than five and not more than seven members to be appointed by the Minister.
- Temporary appointments.
2/1975
S. 3(a).
2. The Minister may appoint any person to act temporarily in the place of any member of the Authority in the case of the absence or inability to act of such member.
- Chairman
3. (1) The Minister shall appoint one of the members of the Authority to be the chairman thereof.
- (2) In the case of the absence or inability to act of the chairman the Minister may appoint any person to perform the functions of the chairman.
- (3) In the case of the absence or inability to act at any meeting of the chairman the remaining members of the Authority shall elect one of their number to preside at that meeting.
- Tenure of office.
4. (1) A member of the Authority shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years as may be specified in the instrument appointing him, and shall be eligible for reappointment.
- (2) The Minister may at any time revoke the appointment of any member of the Authority.
- Resignation.
5. (1) Any member of the Authority 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 from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Authority.
- (2) 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 by the Minister.
- Publication of membership.
6. The names of all members of the Authority as first constituted and every change in the membership thereof shall be published in the *Gazette*.
- Authentication of seal and documents.
7. (1) The seal of the Authority shall be authenticated by the signatures of the chairman or one member of the Authority authorized to act in that behalf and of the secretary of the Authority.
- (2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the chairman or any member authorized to act in that behalf or the secretary of the Authority.

8. (1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Authority shall determine. Procedure and meetings.

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

(3) The chairman or, in the case of the absence or inability to act of the chairman, the person elected in accordance with the provisions of sub-paragraph (3) of paragraph 3 shall preside at the meetings of the Authority, and when so presiding the chairman, or the person elected as aforesaid, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Authority shall be three including the chairman or the person elected to preside as aforesaid.

(5) Subject to the provisions of this Schedule the Authority may regulate its own proceedings.

(6) The validity of any proceeding of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the chairman and other members of the Authority such remuneration, if any (whether by way of salaries or travelling or other allowances) as the Minister may determine. Remuneration of members.

10. The funds of the Authority shall consist of such moneys as may from time to time be placed at its disposition for the purpose of this Act by Parliament and such other moneys as may lawfully be paid to the Authority. Funds of the Authority.

11. The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a secretary, and such officers, agents and servants as it considers necessary for the proper performance of its functions: Power to appoint officers, agents and servants.

Provided that, except with the prior approval of the Minister—

(a) no salary in excess of the rate of \$8,000 per annum shall be assigned to any post; 2/1975 S. 3(b).

(b) no appointment shall be made to any post to which a salary in excess of the rate of \$8,000 per annum is assigned. 2/1975 S. 3(b).

12. (1) The Authority shall keep proper accounts and other records in relation to the business of the Authority and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform to the best commercial standards. Accounts and audit.

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(2) The Authority may write off bad debts.

(3) The accounts of the Authority shall be audited by an auditor or auditors appointed annually by the Authority and approved by the Minister.

(4) Within four months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, the Authority shall send the statement of its accounts referred to in sub-paragraph (1) to the Minister, together with a copy of any report made by the auditor on that statement or on the accounts of the Authority.

(5) The auditor's fees and any expenses of the audit shall be paid by the Authority.

(6) The Auditor-General shall be entitled, on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Authority.

Annual
report and
estimates.

13. (1) The Authority shall, within five months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, cause to be made and transmit to the Minister a report dealing generally with the activities of the Authority during that financial year, and containing such information relating to the proceedings and policy of the Authority as can be made public without detriment to the interests of the Authority.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon and on the accounts to be laid on the Table of the House of Representatives and the Senate.

(3) Copies of the Authority's report together with the annual statement of accounts and the auditor's report on that statement and on the accounts of the Authority shall be published in such manner as the Minister may direct and shall be made available to the public by the Authority at a reasonable price.

(4) The Board shall on or before the thirty-first day of October 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 April next following and ending on the thirty-first day of March of the subsequent year, and shall during that year submit to the Minister for approval any estimates of further expenditure as may become necessary.

Protection
of members
of
Authority.

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

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

15. The office of member of the Authority shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of member of Authority not public office for the purposes of Chapter V of the Constitution.