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SAINT VINCENT AND THE GRENADINES

ACT NO. 36 OF 2001

IN ASSENT

CHARLES J. ANTROBUS

Governor-General

14th December, 2001.

[L.S.]

AN ACT to make provision for the restructuring of the Banana Industry.

[18th December, 2001]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows:

1. This Act may be cited as the Banana Industry Restructuring Act 2001, and shall come into operation on a day to be appointed by the Governor General by Proclamation published in the *Gazette*

Short title and commencement

2. In this Act,

Interpretation

"Assembly" means the Assembly of Banana Growers established under section 15;

"Association" means the Saint Vincent and the Grenadines Banana Growers Association established under section 3;

"banana" means any fruit from any variety of the plant of the genus *musa* and "banana plant" is to be construed accordingly;

"banana grower" means the owner or occupier of land on which banana plants are cultivated;

"Chairman" means the chairman of the Banana Action Committee;

"Committee" means the Banana Action Committee established under section 5;

"former Act" means the Banana Industry Act;

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"General Manager" means the General Manager of the Association appointed under section 13 of the Act;

"Minister" means the Minister responsible for Agriculture;

"register" means the register of banana growers pursuant to section 11;

"registered grower" means a person whose name is for the time being entered in the register;

"State" means the State of Saint Vincent and the Grenadines;

"WIBDECO" means the Windward Island Banana Development and Exporting Company Limited a company incorporated under the Companies Act.

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Establishment and functions of the Saint Vincent and the Grenadines Banana Growers Association

3. (1) There is established the Saint Vincent and the Grenadines Banana Growers Association a body corporate with the power to contract and to sue and be sued in that name to acquire, hold and dispose of property and to draw, accept, make, endorse and negotiate bills of exchange, promissory notes, bills of lading and any other negotiable instrument.

(2) The Association shall in accordance with the provisions of this Act, have the following functions:

- (a) to control the cultivation of banana and banana plants within the State;
- (b) to promote institute and undertake research into the cultivation of bananas and banana plants and take the necessary steps as may be expedient for the control or prevention of pests and diseases that affect the cultivation of bananas and banana plants;
- (c) to provide for the protection and improvement of the banana industry;
- (d) to negotiate and procure the payment to banana growers of an equitable price for bananas;
- (e) to assist and to act as agents for registered growers and to perform on their behalf, services as may be determined from time to time; and

to provide, on the advice of Cabinet, generally for the better carrying into effect of the provisions and purposes of this Act.

Official seal of the Association

4. The Association shall have an official seal that shall be affixed only by the authority of the Committee and accompanied by the signatures of the Chairman, one member of the Committee and the General Manager.

5. (1) There is established a Banana Action Committee and the operations of the Association shall be conducted by that Committee.

Establishment of
the Banana
Action
Committee

(2) The Committee may, on behalf of the Association, do what is necessary and expedient in furtherance of or consistent with the purposes and provisions of this Act.

6. (1) The Committee shall consist of fifteen persons appointed by Cabinet as follows:

Constitution of
the Committee

(a) the Chief Agricultural Officer in the Ministry of Agriculture, Lands and Fisheries or his nominee;

(b) the Director General of Finance and Planning or his nominee;

who shall be ex-officio members;

(c) eight persons who are banana growers four of whom shall be appointed in consultation with the Assembly;

(d) a representative from the Chamber of Commerce nominated by the Chamber;

(e) four other persons one of whom shall be a representative from the main Trade Union representing the banana industry.

(2) Cabinet shall, by instrument in writing, appoint a Chairman and a Deputy Chairman of the Committee from amongst the members and the Deputy Chairman shall, in the absence for any reason of the Chairman, perform the functions of the Chairman.

(3) The purpose, functions and policy of the Committee shall be determined from time to time by Cabinet upon consultation with the Assembly.

7. (1) A member of the Committee shall hold office for a term of one year, and shall be eligible for re-appointment.

Tenure of office
and remuneration

(2) A member of the Committee shall be paid remuneration in accordance with the terms and conditions determined by Cabinet.

8. The Chairman or if he is not present, the Deputy Chairman and eight of the members of the Committee shall constitute a quorum.

Quorum

9. No action taken, or thing done by the Committee, pursuant to its functions under this Act, shall be invalid by reason only that a vacancy exists in the number of members on the Committee.

Vacancy in
membership

Purchasing and
export and
marketing of
bananas

10. (1) WIBDECO is the sole exporter and marketer of bananas produced in the State and exported to non-Caribbean States and territories.

(2) The purchase and export by WIBDECO of bananas produced in the State shall be under written agreement between WIBDECO and the Association, setting out the details of the terms and conditions that both parties will be bound by in the purchase and export of bananas produced in the State.

(3) In the interim until the agreement referred to in subsection (2) is finalised and pursuant to subsection (1) WIBDECO is vested with the necessary powers to enable it to purchase from the Association bananas produced in the State and export and market them to non-Caribbean States and territories.

Register of banana
growers

11. (1) The Association shall cause to be kept a book with numbered or indexed pages to be known as the "register of banana growers."

(2) An owner or occupier of land who has cultivated at least thirty roots, mats, shoots or banana plants may apply in writing to the Association to be registered as a banana grower.

(3) If the Association is satisfied that an applicant is duly qualified under subsection (2) for registration, the Association shall

(a) cause his name to be entered in the register; and

(b) ensure that he is issued with a numbered registration card signifying that he is a registered grower,

but if it is not satisfied the Association shall reject the application.

(4) Before considering any application made under subsection (2) the Association may require the applicant to furnish evidence to show that he is qualified in accordance with subsection (2).

(5) If at any time the Association has reason to believe that a registered grower is no longer qualified to be registered under this section, the Association may serve on him, personally or by post, a notice that he shall within a specified time, present evidence to the satisfaction of the Association, that he is still qualified to be registered, otherwise his name will be struck off the register.

(6) If, after service of a notice under subsection (5), the Association is not satisfied by the evidence presented the name of the registered grower concerned shall be struck off the register and from the register of members of the district branch where his name appears.

(7) If a registered grower dies the Association may enter the names of his person representatives in the register in place of the name of

the deceased save that, not more than one person shall be registered in respect of the same lot, piece or parcel of land and the Committee may, in its discretion, remove from the register the names of the personal representatives, or any of them, at any time.

(8) The business name of any body of persons duly registered under the Registration of Business Names Act, may be entered in the register on application made and qualification appearing in accordance with this section and subsection (5) and (6) shall apply accordingly.

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(9) An application for registration under this section shall not be made to, or considered by, the Association if within the period of one year immediately preceding the application, a similar application has been made by the same applicant in respect of the same lot, piece or parcel of land.

12. (1) A person whose application for registration under section 11 has been rejected by the Association may appeal, within three months, to the magistrate of the district where the person resides, and if the magistrate is satisfied by evidence that the person is qualified under section 11 (2), the magistrate shall order the General Manager to re-enter the name of that person in the register.

Right of appeal

(2) Notice of the hearing of an appeal to the magistrate under this section shall be served upon the General Manager by the appellant at least seven clear days before the date fixed for the hearing.

(3) At any subsequent hearing, the General Manager may be ordered to pay a fine of forty dollars for each day, after the date of receipt by him of an order under subsection (1), where it is proved that he failed, without reasonable excuse, to enter the name of the appellant in the register.

(4) Orders made by a magistrate under this section shall be final and shall not be the subject of an appeal to any other court.

13. The Committee shall upon prior approval of Cabinet, appoint a General Manager of the Association and determine the remuneration, terms and conditions of his service.

Appointment of General Manager

14 All other management personnel and administrative staff of the Association shall be appointed by the Committee except that, if the Committee intends to appoint staff at a remuneration of or in excess of thirty six thousand dollars per annum, the approval of Cabinet must be obtained prior to the appointment.

Appointment of management personnel and staff

15. (1) There is established an Assembly of Banana Growers, which shall replace the existing district branches established under the former Act.

Establishment of Assembly of Banana Growers

(2) The Assembly will be maintained at the national, and district level and may be called upon by the Committee from time to time for advice on matters pertaining to the restructuring, management and functioning of the banana industry.

Registers of district branches

16. The registers maintained by district branches under the former Act shall be delivered to the office of the Association.

Power to enter land for appraisal etc.

17. (1) The Association may, in writing, require the Chief Agricultural Officer to enter upon any land where bananas or banana plants are situated, for the purpose of appraising or inspecting

- (a) the variety, quality, quantity or condition of bananas or banana plants;
- (b) the method of cultivation or reaping employed; and
- (c) any equipment or material used.

(2) The Chief Agricultural Officer, after giving seven days notice in writing to the owner or occupier of his intention to enter upon the land in accordance with subsection (1), may enter the land at any reasonable time to do all things necessary for the appraisal or inspection under subsection (1).

(3) The Association may, by its duly authorised agents, serve personally or by post on a banana grower, a notice of intention to enter the land owned or occupied by him and, shall enter the land two clear days after the date of service, for the purpose of ascertaining or ensuring compliance with any measures required to be taken by regulations made under this Act.

(4) A person authorised under subsection (3) to enter any land in pursuance of that authorisation must have written authorisation signed by the General Manager, and the written authorisation shall be produced for the inspection of any person reasonably requiring the same.

(5) In this section "land" includes any building on the land.

Pension and provident fund schemes

18. The Association shall honour any pension and provident fund schemes that were established prior to the commencement of this Act.

Funds of the Association

19. The funds of the Association shall comprise of

- (a) sums of money that may from time to time be voted to the Association for the purposes of this Act by the House of Assembly;
- (b) monies accruing to the Association in the course of the performance of any of its functions under this Act; and

- (c) any other sums of money paid to the Association, in respect of a matter or thing, in pursuance or as a consequence of, or incidental to, the exercise of its powers and the performance of its functions under this Act.

20. (1) The Association must keep proper books of account containing details of all its transactions.

Accounts and
audit

(2) The Director General of Finance and Planning or any such public officer authorised by him in writing shall have access to all accounts, documents, papers and books of the Association, and the General Manager shall furnish to the Director General of Finance and Planning or the public officer authorised by him all information with respect to the financial position of the Association as he may at any time reasonably require.

(3) The accounts of the Association shall be audited annually by an auditor appointed by Cabinet.

(4) The Director of Audit or a duly appointed auditor, may demand the production of any accounts, documents, papers and books of the Association that in his opinion are required to enable him properly to audit the accounts of the Association.

(5) The audited accounts and any auditor's report on the accounts must be submitted to the Committee as soon as is reasonably practicable after completion of the audit and in any event on or before the 15th day of April in each year, and the General Manager shall forward a copy to the Minister.

(6) The General Manager must, not later than two months after the end of each year, submit to the Minister a report containing a summary

(a) of the operations of the Association during the previous year; and

(b) of the financial position of the Association at the end of that year.

(7) The Minister shall, as soon as is reasonably practicable after receipt of the report mentioned in subsection (6), lay copies of that report and of the audited accounts and any auditor's report on the accounts before the House of Assembly.

21. (1) The Association shall be exempt from payment of stamp duty, search and inspection fees, and other charges of a public nature, in respect of the statutory registration, filing or custody of documents by the Committee or the Association.

Exemption from
duty

(2) The Association shall be exempt from payment of customs duty in respect of all goods and equipment imported by the Association required in the exercise of its powers and the performance of its functions under this Act.

Disclosure of interest

22. (1) A member of the Committee or the staff of the Association who is, or is likely to be, concerned in, or who participates in the profits of, any contract with or work done by or for the Association, otherwise than in his capacity as a member or employee of the Association, shall disclose the nature of his interest in the contract or work done for the Association in writing to the Committee.

(2) A member of the Committee who is required by subsection (1) to disclose his interest shall, if the matter in which he has an interest, comes before any meeting of the Committee for consideration, before consideration is given to it, disclose his interest and shall, unless the Committee otherwise agrees, retire from the meeting for the duration of the consideration of the matter and shall in any case abstain from any vote in connection with the matter.

Transfer of officers

23. (1) The Public Service Commission may at any time permit and give effect to the transfer of an officer from the public service to the Association and vice versa pursuant to the provisions of the Public Officers (Transfer of Undertakings) Act.

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(2) The transfer in pursuance of subsection (1) of any officer shall, for the purposes of the Pensions Act, be treated as a transfer to which Part III of the Schedule to that Act applies, and his service with the Association shall be deemed to be pensionable service.

(3) The Association shall, in respect of any officer transferred to it under subsection (1), contribute to the Consolidated Fund the amount by way of pensionable emoluments and personal allowances for the purposes of the Pensions Act as Cabinet may determine.

Directions of Minister

24. The Minister may, after consultation with the Chairman of the Committee and with the approval of the Cabinet, give to the Committee directions in writing of a general or special character not inconsistent with the purposes and provisions of this Act as to the exercise and performance by the Committee of its functions in relation to matters that affect the banana industry.

Assets and liabilities

25. The assets and liabilities of the Saint Vincent and the Grenadines Banana Growers Association under the former Act shall be vested in the Association established under this Act.

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26. The Minister may, on the recommendation of the Committee, make Regulations for the proper carrying out of the purposes of this Act. Regulations

27. The Banana Industry Act is repealed. Repeal of Cap. 32

Passed in the House of Assembly of this 16th day of October 2001.

J. THERESA ADAMS
Clerk of the House of Assembly.

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