

SAINT VINCENT AND THE GRENADINES
BANANA INDUSTRY ACT 2009
ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Interpretation
3. Responsibilities of the Minister
4. Banana Division
5. Register of banana farmers
6. Application for registration as a banana farmer
7. Right of review
8. Power to enter land for appraisal etc.
9. Banana Industry Fund
10. Regulations regarding the Fund
11. Purchase, export and marketing of bananas
12. Licence to export bananas
13. Allocation of fees charged
14. Power of Minister responsible for finance to vary fees and proportions
15. Consultative Committee on the Banana Industry
16. Regulations
17. Dissolution
18. Repeal
19. Savings



SAINT VINCENT AND THE GRENADINES

ACT NO. 3 OF 2009

I ASSENT

[L.S.]

DR. FREDERICK BALLANTYNE
Governor-General
15th May, 2009

AN ACT to repeal the Banana Industry Restructuring Act 2001; to make provision for the dissolution of the Saint Vincent and the Grenadines Banana Growers Association; to facilitate the improvement of the banana industry in Saint Vincent and the Grenadines; and for other related purposes.

[19th May, 2009]

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. (1) This Act may be cited as the Banana Industry Act 2009. Short title and commencement
 (2) This Act comes into operation on a day to be proclaimed by the Governor-General by proclamation in the *Gazette*.
2. In this Act: Interpretation
 - "banana" means any fruit from any variety of the plant of the genus *musa* and "banana plant" is to be construed accordingly;
 - "Banana Division" means the division established under section 4;
 - "banana farmer" means the owner or occupier of land on which banana plants are cultivated;

"box of bananas" means any box, crate, carton or other receptacle containing bananas and which conforms to the standard weight determined from time to time by the Minister;

No. 36 of 2001

"former Act" means the Banana Industry Restructuring Act 2001;

"Fund" means the Banana Industry Fund established by section 9;

"Minister" means the Minister responsible for agriculture and "Ministry" shall be construed accordingly;

"occupier" in relation to any land, means a person in actual occupation thereof;

"owner" in relation to any land, includes any person having for the time being the possession, custody, or control thereof;

No. 16 of 2005

"pest" has the same meaning as in the Plant Protection Act 2005;

"producer organisation" means any organisation which is formed for the purpose of trading in bananas on behalf of its members;

"register" means the register of banana farmers established under section 5;

"registered farmer" means a person whose name is entered in the register;

"trader" means any person that engages in the trading of bananas;

"WIBDECO" means the Windward Island Banana Development and Exporting Company Limited, a company incorporated under the laws of Saint Vincent and the Grenadines;

No. 5 of 1996

"WINCROP" has the same meaning as in the Windward Island Banana Insurance Act 1996.

Responsibilities of the Minister

3. (1) The Minister is responsible for the general administration of this Act.

(2) In particular, it is the responsibility of the Minister to:

(a) furnish managerial, technical and administrative advice or training to registered farmers or provide assistance

in obtaining such managerial, technical and administrative advice or training:

- (b) prevent, control or eradicate *pests* that affect the cultivation of bananas or banana plants;
- (c) promote the interests and efficiency of the banana industry by coordinating, in collaboration with any producer organisation or trader, the production, ripening, marketing and distribution of bananas; and
- (d) establish standards for the production of bananas in Saint Vincent and the Grenadines and ensure compliance with such standards.

4. (1) For the purpose of the proper discharge of the responsibilities and functions of the Minister under this Act, there shall be established in the Ministry a division to be known as the Banana Division, which division shall be under the supervision of the Chief Agricultural Officer.

Banana Division

(2) The Public Service Commission or the Ministry, as the case may be, may appoint or designate such officers to be officers of the Banana Division as may be necessary for the purpose of the proper discharge of the responsibilities and functions of the Minister under this Act.

(3) The officers of the Banana Division shall discharge the responsibilities and functions of the Minister under this Act as directed by the Chief Agricultural Officer.

(4) In discharging the responsibilities of the Minister under section 3(2) (b), the Banana Division shall collaborate with the plant protection and quarantine division of the Ministry.

5. The Minister shall cause to be established and maintained a register with numbered or indexed pages to be known as the "Register of Banana Farmers".

Register of
banana farmers

6. (1) An owner or occupier of land who cultivates at least one hundred mats of banana plants may apply in writing to the Banana Division to be registered as a banana farmer.

Application for
registration as a
banana farmer

(2) On receipt of an application for registration under subsection (1), the Banana Division shall forthwith issue to the applicant, pending the consideration of his application, a provisional registration card and the holder of a provisional registration card shall be deemed for all purposes to be a registered farmer.

(3) Within a reasonable time from the issue of a provisional registration card to an applicant for registration under subsection (1), the Banana Division:

- (a) May, if it determines necessary, require the applicant to furnish evidence to show that he is duly qualified to be registered in accordance with subsection (1); and
- (b) shall:
 - (i) if it is satisfied that the applicant is duly qualified under subsection (1) to be registered, enter the applicant's name in the register and issue to the applicant a numbered registration card signifying that he is a registered farmer; or
 - (ii) if it is satisfied that the applicant is not duly qualified under subsection (1) to be registered, reject the application,

and the provisional registration card shall then expire.

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

(5) If, after service of a notice under subsection (4), the Banana Division is not satisfied by the evidence presented, the Banana Division shall strike the name of the registered farmer concerned off the register.

(6) If a registered farmer dies, the Banana Division may enter the names of his personal 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 Banana Division may, in its discretion, remove from the register the names of the personal representatives, or any of them, at any time.

(7) The business name of any body or person duly registered under the Registration of Business Name Act may be entered in the register on application made and qualification appearing in accordance with this section and subsections (4) and (5) shall apply accordingly.

(8) An application for registration under this section shall not be made to, or considered by, the Banana Division if within the period of

one year immediately preceding the application, a similar application has been made by an applicant in respect of the same lot, piece or parcel of land.

7. (1) Any person whose application for registration under section 6 has been rejected by the Banana Division may, within three months of being notified of the decision, apply in writing to the Minister to have the decision reviewed.

Right of review

(2) Upon receipt of application for review under subsection (1), the Minister shall appoint one or more delegates but not exceeding three delegates to enquire into the matters raised in the application and report to the Minister who shall thereupon determine the review.

(3) The decision of the Minister under this section is final.

8. (1) Subject to subsection (2), the Chief Agricultural Officer, an officer of the Banana Division or any other person generally authorised in writing by the Chief Agricultural Officer or the Minister, on producing some duly authenticated document showing his authority, may, at any reasonable time, enter land where bananas or banana plants are situated for the purpose of:

Power to enter land for appraisal etc.

(a) appraising or inspecting:

- (i) the variety, quantity, quality or sanitary and phytosanitary condition of the bananas or banana plants or any other musa species;
- (ii) the method of cultivation or reaping employed; or
- (iii) any equipment or material used; and

(b) ascertaining or ensuring compliance with any measures required to be taken by regulations made under this Act.

(2) Before entering any land under subsection (1), the Chief Agricultural Officer, an officer of the Banana Division or any other person generally authorised in writing by the Chief Agricultural Officer or the Minister shall make a reasonable effort to obtain permission *to enter* from the person he believes to be the owner or occupier of the land.

(3) If permission is not granted by the owner or occupier of the land, the Chief Agricultural Officer, an officer of the Banana Division or any other person generally authorised in writing by the Chief Agricultural Officer or the Minister may not enter the land except on the authority of a warrant issued by a magistrate.

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

*Banana Industry
Fund*

9. (1) For the purposes of this Act, there shall be established by the Accountant-General an account to be known as the Banana Industry Fund into which the Accountant-General shall pay:

- (a) the amounts of money allocated to the credit of the Fund by section 13 (a);
- (b) such amounts of money that may from time to time be voted to the Fund for the purposes of this Act by Parliament; and
- (c) any contributions made to the Fund by individuals or organisations.

(2) Moneys from the Fund shall be applied for the purposes of:

- (a) expenses incurred in the prevention, control or eradication of *pests* that affect the cultivation of bananas or banana plants;
- (b) inquiring into improved methods of producing and distributing bananas particularly through the development of varieties of banana plants that provide yields of bananas or improved resistance to or control over the infestation of pests; or
- (c) any other matter prescribed by regulations made under this Act by the Minister responsible for finance.

*Regulations
regarding the
Fund*

10. (1) Subject to subsection (2), the Minister responsible for finance may make regulations to provide for the following matters:

- (a) the procedure which shall govern the making of disbursements from the Fund;
- (b) the keeping of proper records, and the keeping and rendering of detailed accounts in relation to the Fund; or
- (c) any matter relating to the Fund that by this Act is permitted to be prescribed.

(2) Regulations made under this section are subject to a negative resolution of the House of Assembly.

11. (1) WIBDECO is the sole exporter and marketer of bananas produced in Saint Vincent and the Grenadines and exported to Europe.

Purchase, export
and marketing of
bananas

(2) The purchase and export by WIBDECO of bananas produced in Saint Vincent and the Grenadines and exported to Europe shall be under written agreement between WIBDECO and any producer organisation or trader 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 Saint Vincent and the Grenadines.

12. (1) No person shall export out of Saint Vincent and the Grenadines to any place outside of Europe any bananas, unless he:

Licence to export
bananas

- (a) applies to the Banana Division, in the manner determined by the Minister, for a licence; and
- (b) makes the consignment of bananas available for inspection by the Banana Division.

(2) The Banana Division shall, upon application by an exporter under subsection (1), cause an inspection of the consignment to be carried out and issue a licence in such form as may be determined by the Minister.

(3) Upon being issued a licence under subsection (2), the exporter shall pay the fee prescribed by subsection (4).

(4) A licence issued under subsection (2) shall be subject to a fee at the rate of four dollars on every box of bananas exported.

(5) Any person who exports or attempts to export bananas in contravention of this Act commits an offence and is liable on summary conviction to a fine of two thousand five hundred dollars.

13. The Banana Division shall pay to the Accountant-General the fees charged for licences issued under this Act and the Accountant-General shall, in relation to such fees:

Allocation of fees
charged

- (a) allocate to the credit of the Fund, a proportion equivalent to three dollars and thirty six cents on every box of bananas exported; and
- (b) in such manner as may be determined by the Minister responsible for finance after consultation with WINCROP, pay over to WINCROP for the purposes of the Banana Insurance Fund established by the

No. 5 of 1996

Windward Island Banana Insurance Act 1996, a proportion equivalent to sixty four cents on every box of bananas exported.

Power of
Minister
responsible for
finance to vary
fees and
proportions

14. (1) Subject to subsection (2), the Minister responsible for finance may by order vary:

- (a) the fees set out in section 12; or
- (b) the proportions set out in section 13.

(2) An order made under this section is subject to negative resolution of the House of Assembly.

Consultative
Committee on
the Banana
Industry

15. (1) There shall be established a Consultative Committee to be known as the Consultative Committee on the Banana Industry, which is referred to in this section as "the Committee".

(2) The Committee shall comprise of the following members to be appointed by the Minister by instrument in writing:

- (a) a representative of the Windward Island Farmers Association;
- (b) a representative of the Saint Vincent and the Grenadines Fair Trade Organisation;
- (c) a representative of WIBDECO;
- (d) a representative of the Ministry;
- (e) a representative of the Input Warehouse Company Ltd; and
- (f) a representative from every producer organisation existing in Saint Vincent and the Grenadines which is not specifically mentioned in paragraph (a), (b) or (c).

(3) The Committee shall, after consultation with the Minister, appoint a chairman from among its members.

(4) A member of the Committee shall hold office on such terms and conditions as may be specified by the Minister in the instrument appointing the member.

(5) Members of the Committee shall serve without compensation but shall be eligible for such travel expenses as may be determined by the Minister responsible for finance.

(8) Subject to this Act, the Committee shall regulate its own proceedings.

16. Without prejudice to the power to make regulations conferred on any other person by any other provision of this Act, the Minister may make regulations generally for giving effect to the provisions of this Act. Regulations

17. On the commencement of this Act: Dissolution

- (a) the Saint Vincent and the Grenadines Banana Growers Association is dissolved;
- (b) all assets, rights and liabilities of the Saint Vincent and the Grenadines Banana Growers Association vest in the Government; and
- (c) any proceeding commenced by or against the Saint Vincent and the Grenadines Banana Growers Association may be continued by or against the Government.

18. The Banana Industry Restructuring Act 2001 is repealed. Repeal
No. 36 Of 2001

19. A person who immediately before the coming into operation of this Act was registered as a registered grower under the former Act shall upon the coming into operation of this Act be deemed to be registered as a registered farmer under this Act if such person qualifies to be registered as a registered farmer under this Act. Savings

Passed in the House of Assembly this 24th day of February, 2009.

NICOLE HERBERT
Clerk of the House of Assembly.

Printed by the Government Printer at the Government Printing Office,
Campden Park, St. Vincent and the Grenadines.