

CITRUS ACT, 1967

Date of commencement: 28th February, 1969.

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An Act to provide for the improvement of the citrus industry, to establish a Citrus Board, to define its functions and powers, to confer and impose certain rights and obligations on growers of citrus fruit and to provide for matters incidental thereto.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Citrus Act, 1967.

Interpretation.

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

“Act” includes directions given under section 44;

“area meeting” means a meeting of the registered growers in a citrus area convened for the purpose of electing a member or members or an alternate member or members;

“board” means the Eswatini Citrus Board constituted under section 3;

“citrus area” means an area demarcated, for the purposes of this Act, in terms of section 11;

“citrus fruit” or “fruit” means oranges, lemons, naartjies (tangerines), grapefruit and limes;

“chairman” means the chairman of the board or, in his absence, the vice-chairman;

“financial year” means the period of twelve months ending on the thirty-first day of March each year;

“general meeting” means a meeting of all registered growers in Eswatini;

“grower” means a human who has for his own account the use of land on which more than fifty citrus trees, not being trees planted in a nursery, are growing, and includes a society registered in terms of the Co-operative Societies Act, No. 28 of 1964, the members of which collectively have the use, for their own account, of land on which more than fifty citrus trees are growing but, unless otherwise provided, does not include the individual members of such society;

“levy” means a levy imposed under Part V;

“member” means a member of the board;

“Minister” means the Minister for Agriculture and Co-operatives;

“nursery” means land on which citrus trees are grown for the purpose of transplanting in a citrus orchard;

“Principal Secretary” means the Principal Secretary of the Ministry of Agriculture;

“register of growers” means the register kept in terms of section 12;

“registered grower” means a grower whose name appears in the register of growers;

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“secretary” means the secretary to the board appointed in terms of section 10;

“vice-chairman” means the vice-chairman of the board.

PART II

CONSTITUTION, POWERS AND PROCEDURES OF THE BOARD

Establishment of Eswatini Citrus Board.

3. (1) A board, to be known as the Eswatini Citrus Board is hereby established.

(2) The board shall be a body corporate with perpetual succession and, in its corporate name, capable of suing and being sued and, subject to this Act, acquiring, alienating, encumbering, leasing or hiring movable or immovable property and doing all things necessary or incidental to the proper and effective functioning of the board or in the discharge of its objects and functions under this Act.

Composition of the board.

4. (1) Subject to section 16, the board shall be composed of —

(a) the Principal Secretary or his representative;

(b) persons elected by growers in terms of section 17, together with the alternates of the persons so elected.

(2) An alternate member may take part in the proceedings of the board and is entitled to receive copies of all documents sent by the secretary to members, but shall not vote except in the absence of his principal.

Qualification for membership of the board.

5. An individual who is a registered grower, or an officer, employee, member or partner of a registered grower which is not an individual and who is authorized by that grower, shall be eligible for election and, if elected, to serve as a member or alternate member of the board.

Disqualification of members.

6. An individual shall be disqualified from being appointed a member or alternate member, or, if appointed or elected as a member or alternate member, shall cease to be a member or alternate member if —

(a) he is an unrehabilitated insolvent or an undischarged bankrupt, having been adjudged or otherwise declared an insolvent or a bankrupt or to be of equivalent status under the law of any country; or

(b) he is certified to be insane under the laws of Eswatini, or otherwise adjudged to be of unsound mind; or

(c) he is under a sentence of imprisonment for a period of at least six months (other than a sentence in lieu of a fine but including a suspended sentence) in respect of an offence, by whatever name called, which is a criminal offence by the law of Eswatini which was —

(i) imposed on him by a court in any country, or

(ii) substituted by competent authority for some other sentence imposed on him by any such court; or

- (d) his name is removed from the register of growers; or
- (e) he is a member by virtue of his election as the authorized representative of a grower and the name of that grower is removed from the register of growers, or his authority to act for that grower is withdrawn; or
- (f) he is absent from four consecutive ordinary meetings of the board without the leave of the board.

Objects of the board.

7. The objects of the board are to —

- (a) administer and control the citrus industry in Eswatini in accordance with this Act;
- (b) foster research for the purposes of maintaining and improving the citrus industry;
- (c) control the marketing of citrus fruit grown in, or imported into, Eswatini; and,
- (d) do generally all such things as are necessary for the regulation and improvement of the citrus industry in Eswatini.

Powers of the board.

8. Without prejudice to any other powers conferred on the board by this Act, the board may —

- (a) sell or otherwise dispose of, or enter into agreements with any other person, authority or government to sell or otherwise dispose of, the citrus fruit of growers in a manner calculated to be in the best interests of growers;
- (b) in a manner calculated to be in the best interests of growers, pack, process or treat or partly pack, process or treat and sell or otherwise dispose of, or enter into agreements with any other person, authority or government to sell or otherwise dispose of, products so packed, processed or treated;
- (c) enter into agreements with any other person, authority or government to sell or dispose of, pack, process or treat or partly pack, process or treat, citrus products in a manner calculated to be in the best interests of growers;
- (d) financially assist, or guarantee the obligations of, any person, authority or concern, or invest in any authority or concern engaged in any activities relating to citrus fruit;
- (e) for the carrying out of its functions raise funds by way of levy upon growers or by other means;
- (f) purchase or otherwise acquire, on its own account, or on behalf of growers, or for resale to growers, agricultural implements, vehicles, machinery, fertilizers, insecticides, planting and packing material and other things necessary or desirable for the production, processing, packing and sale of citrus fruit;

- (g) acquire, by hire, purchase or otherwise, land, buildings or cold storage facilities;
- (h) maintain and repair, and wholly or partially replace anything referred to in paragraphs (f) and (g);
- (i) subject to section 10, appoint and remunerate out of the funds of the board such officers, advisers, auditors and servants as it deems necessary for the efficient carrying out of its functions;
- (j) acquire and impart to growers information appertaining to the citrus industry in all its branches or aspects;
- (k) for the carrying out of its functions, raise such loans as it deems fit with or without security, actual or contingent, and give guarantees for the benefit of any person carrying on activities calculated to further its objects or to benefit growers;
- (l) advance money to a grower or guarantee the obligations of a grower on such terms and on such security as it deems fit;
- (m) remunerate the chairman and other members out of its funds for services rendered it;
- (n) reimburse the chairman and other members out of its funds for any expenses reasonably incurred in, or incidental to or in connexion with, the exercise and performance of its functions;
- (o) open and operate banking accounts;
- (p) as it deems fit, invest such of its funds as are not immediately required for its functions;
- (q) dispose, whether absolutely or conditionally, of any of its property or undertaking which, in its opinion is not required by it for the discharge of its functions;
- (r) construct, erect, maintain or enter into contracts for the construction, erection or maintenance of buildings, storage facilities, packhouses, warehouses, factories or such other facilities as may be necessary or convenient for the attainment of its objects; and
- (s) take other action which is incidental to, or connected with, the exercise of any of the foregoing powers or any other powers conferred on it by this Act.

Procedure of the Board.

9. (1) Members shall elect from amongst themselves a chairman and a vice-chairman.
- (2) The chairman and vice-chairman shall hold office until they retire by rotation in the manner specified in sub-section (3) or cease to be members for any other reason and eligible for re-election as chairman or vice-chairman.
- (3) On the thirty-first day of March in each year a member from each citrus area, who has been longest in office, shall retire.
- (4) As between members who became members on the same day, the member to retire shall, unless they otherwise agree amongst themselves, be determined by lot.
- (5) A retiring member is eligible for re-election.

(6) The board may co-opt one person from, and to represent the interests of, citrus fruit canners in Eswatini upon such terms and conditions as to his rights, duties and privileges on the board as it may decide, but he shall not have a vote.

(7) Each member of the board shall have one vote but the chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.

(8) A decision of a majority of members present and voting at meeting of the board shall be deemed to be the decision of the board.

(9) The quorum of the board shall be five members or three-quarters of members, whichever is less.

(10) The board shall cause minutes of the proceedings at all its meetings or a committee of members, to be entered in books kept for the purpose, and the minutes shall contain properly tabulated details of the business conducted at those meetings.

(11) The minutes of each meeting shall be submitted at the next ensuing meeting and shall, if passed thereat as correct, be confirmed by the signature of the chairman.

(12) If an elected member is unable to serve on the board or is disqualified from so doing in terms of section 6 or if he submits a written notice of his resignation to the chairman, his post shall be filled by his alternate member elected by growers in his citrus area.

(13) If the alternate member is likewise unable to serve on the board for any reason, then there shall be an election for the replacement of the member and his alternate and an area meeting shall be convened for that purpose.

Appointment of secretary.

10. The board shall appoint and remunerate, out of its funds, one or more persons to carry out the duties of secretary which are to —

- (a) keep the records of the board;
- (b) perform the duties which are specifically imposed on the secretary under this Act; and
- (c) do all other things connected with the functions of the board required by this Act or directed by the Board.

PART III

REGISTRATION OF GROWERS AND RELATED MATTERS

Citrus areas. (Schedule)

11. (1) For the purposes of this Act, Eswatini is divided into the citrus areas set out in the Schedule.

(2) The Minister at the request of the board may, by notice published in the *Gazette*, vary the boundaries and the number of citrus areas.

Register of growers.

12. (1) The secretary shall maintain a register of growers at his office.

(2) The register shall be in such form as the board may determine, but shall include, in respect of each grower—

- (a) his name;
- (b) his postal address;
- (c) the description, as recorded in the office of the Registrar of Deeds, of the land in respect of which he is a grower and the citrus area in which that land is situated;
- (d) the number of citrus trees growing on that land, other than trees growing in a nursery, expressed to the nearest multiple of fifty; and,
- (e) if the grower is not an individual, the name and address of a person authorized to represent the grower at meetings of growers held in accordance with this Act.

(3) The register may be inspected by any grower, at any time during the secretary's ordinary office hours.

Registration of growers.

13. (1) Within three months after the commencement of this Act, every person who, at the commencement of this Act, is a grower shall apply to the board for registration in the register of growers by furnishing the secretary with the information set out in section 12(2).

(2) A grower who qualifies as such after the commencement of this Act shall likewise apply for registration within three months of so qualifying.

(3) In the event of any change occurring, affecting the information required to be furnished by a grower, he shall notify the secretary of the change within one month after the last day of the month during which the change takes place.

(4) Upon receipt of an application for registration or notification of a change of information relating to a grower or upon a change occurring, the board shall register the grower or record the change, if it is satisfied that the applicant is qualified as a grower.

(5) The board may determine the manner and form of application and notification under this section, fix and impose a fee for registration, require growers to submit annual returns of the information required to be recorded in the register of growers and, through its duly appointed agent, inspect the property of the grower to verify the facts advised to it or relevant to the grower's registration.

Cancellation of registration.

14. (1) After making such inquiries as, to the board, seem necessary, it shall remove the name of any person who ceases to be qualified as a grower from the register of growers.

(2) The name of any person whose registration is cancelled or suspended in terms of section 41(2) shall be removed from the register of growers.

Certificate of Registration.

15. (1) The board shall furnish every grower entitled thereto in terms of sections 12 and 13 with a certificate of registration in such form as the board may determine.

(2) The certificate of registration, unless cancelled by the board shall be *prima facie* proof of registration for the purposes of this Act.

PART IV

APPOINTMENT OF FIRST BOARD, AREA MEETINGS AND GENERAL MEETINGS

First board.

16. (1) Upon the commencement of this Act, the Minister shall appoint a board which shall hold office until such time as it is replaced by a board elected in terms of section 17.

(2) The Principal Secretary or his representative shall be the chairman of the board so appointed.

Election of members and alternates.

17. (1) Within four months after the commencement of this Act, the board shall convene a meeting, in each citrus area, of the registered growers in that area for the purpose of electing two members and two alternate members to represent that area on the board.

(2) Thereafter area meetings shall be convened annually not later than the end of March in each year or such later date as the Minister may authorize and whenever it is necessary, under this Act, to elect a member or alternate member.

Convening of, and procedure at, area meetings.

18. (1) Whenever it is necessary to hold an area meeting, the chairman or secretary shall convene such a meeting in the area concerned and shall call for nominations for the election of members or alternate members, as the case may be, in the manner prescribed by the board.

(2) Subject to sub-sections (3) and (4), at an area meeting a grower, who is present in person or by proxy, shall be entitled to one vote for every fifty trees as recorded at the date of the notice of the meeting against his name in the register of growers.

(3) The number of votes to which a grower is entitled shall be limited to one third of the total votes available in the citrus area in which he is registered, calculated by reference to the total number of trees registered for that area in terms of section 12 before taking into account this limitation and disregarding fractions of votes.

(4) No proxy shall be required in the case of a grower who is represented at the meeting by the person registered as his representative in terms of section 12.

(5) The quorum required at any area meeting shall be at least two growers present in person or by proxy who are together entitled, in terms of sub-section (2), to at least one third of the total votes available in the area.

(6) The business at an area meeting shall be —

(a) the election, by growers present in person or by proxy, of —

(i) a chairman of the meeting from one of their number;

(ii) members or alternate members to represent the area on the board;

(b) any business under section 19; and

(c) the raising of matters by and for the consideration of members.

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(7) A separate ballot shall be taken in respect of each vacancy and the candidate receiving the greatest number of votes shall be declared to be elected to fill that vacancy, but an unsuccessful candidate shall be eligible to stand as a candidate in the next ballot either for the other member or alternate member, as the case may be.

(8) After the meetings the chairman thereof shall forthwith transmit to the secretary the names of the persons elected as members or alternate members.

(9) If there is no quorum present at an area meeting, it shall stand adjourned to the same time and place and on the same day of the following week and, if there be no quorum at the adjourned meeting, the meeting shall be abandoned.

(10) If a meeting is abandoned or if there are no nominations the Minister shall, in consultation with the board, appoint members and, or, alternate members from growers in such an area to represent the area and the persons appointed shall hold office as if they had been duly elected at an area meeting.

(11) The total number of votes available in an area shall be calculated in terms of subsection (2) and according to the total number of trees registered for the area, with the board, in terms of section 12.

Removal of members and alternate members.

19. (1) Upon a requisition in writing by growers entitled to fifty per centum or more of the votes available in a citrus area, requiring that a member or alternate member representing that area, should retire, the chairman or secretary shall, forthwith, convene an area meeting in that area.

(2) At the meeting, the question of the retirement of the member or alternate member named in the requisition shall be put to the vote and, if the majority of votes is in favour of his retirement, he shall forthwith retire, but shall be eligible for re-election.

(3) The chairman of the meeting shall then call for nominations to replace any person so retired and an election shall then take place.

(4) Section 18(2) to (8), inclusive shall, *mutatis mutandis*, apply to an area meeting convened under this section.

(5) If there is no quorum present at an area meeting convened under this section, the meeting shall be abandoned, and the requisition shall lapse.

General meetings of growers.

20. (1) The chairman shall, from time to time as may be necessary in the interests of growers, convene general meetings of registered growers:

Provided that, unless the Minister otherwise authorizes, there shall be at least one meeting every year, to be known as the annual general meeting, which shall be held within six months after the end of the board's financial year and not more than fifteen months after the holding of the last preceding annual general meeting.

(2) Save as otherwise provided in this Act, the time and place of holding a general meeting of registered growers shall be decided by the chairman, unless otherwise determined by the growers, and the agenda of the business to be decided shall be stated with such particularity as the chairman shall approve.

(3) Except as otherwise provided for in this Act, a general meeting of registered growers shall be called by giving at least twenty-one days' notice in writing.

(4) Such notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, the day and the hour of the meeting and shall be sent by registered post to every grower registered in the register of growers at the address registered therein.

(5) The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at the meeting.

Voting at general meetings.

21. (1) Every registered grower shall be entitled to attend and vote at a general meeting either in person or by proxy.

(2) No proxy shall be required in the case of a grower who is represented at the meeting by the person registered as his representative in terms of section 12.

(3) Questions arising at a general meeting shall be decided by the majority of the votes exercised by growers personally present or by proxy.

(4) Unless a poll is demanded, voting shall be by show of hands, each grower having one vote.

(5) A grower or growers, representing not less than one tenth of the total voting rights of growers present at the meeting in person or by proxy may, immediately after a show of hands, demand that a poll be taken, in which event voting shall be by secret ballot, and a grower shall be entitled to the same number of votes as he would be entitled to at an area meeting in his area.

Procedure at general meetings.

22. (1) No business shall be transacted unless a quorum of growers is present at the time when the meeting proceeds to business.

(2) Ten growers, personally present or represented by proxy and being entitled to not less than fifty per centum of the total votes to which all growers are entitled at area meetings, shall constitute a quorum.

(3) If within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same time and place and on the same day of the following week, at which latter meeting those registered growers present shall constitute a quorum.

(4) The chairman shall preside at every general meeting of registered growers.

(5) If the chairman is not present the meeting shall elect a chairman from their number.

(6) Proxies, where required, shall be lodged in such form and at such times as may be prescribed.

(7) Notice of the business of the meeting as required by section 20(2) to (5) inclusive, may be waived if growers, present in person or by proxy at the meeting, who are entitled to not less than seventy-five per centum of the total votes available to growers at area meetings, resolve to do so.

Powers of growers in general meeting.

23. (1) The growers in general meeting may —
- (a) approve or disapprove of any matter required by this Act to be submitted to them for approval;
 - (b) subject to the requirements of this Act, give directions, generally or specifically to the board on the exercise of any of its functions.
- (2) Notwithstanding sub-section (1), the board may exercise any of the powers conferred on it under this Act without the sanction of a general meeting, unless —
- (a) the board is required by this Act to refer the matter to a general meeting for approval, or
 - (b) the growers in general meeting have otherwise directed.

Business at annual general meeting.

24. At an annual general meeting, the board shall submit for the approval of growers —
- (a) the report and accounts of the board for the previous years;
 - (b) the proposed expenditure budget of the board for the ensuing year including the remuneration of the chairman and other members of the board unless these matters have been approved at a previous meeting;
 - (c) the levies on growers and the method of collection thereof proposed by the board, unless the levies have been approved at a previous meeting;
 - (d) any liabilities, commitments, or agreements proposed to be undertaken or entered into by the board.

General meeting on requisition.

25. (1) The chairman shall convene a general meeting on a requisition signed by two members or by growers entitled to not less than twenty-five per centum of the total votes which could be exercised by growers at a poll at a general meeting.
- (2) The requisition shall state the objects of the meeting and shall be lodged with the chairman or secretary.

PART V

FINANCE AND ACCOUNTS

Levy on growers.

26. (1) The Board may, subject to sections 27 and 28, impose on all growers levies for the carrying out of the functions of the board and prescribe the principles relating thereto and the amount and method of collection of the levies, and may apply different principles dependent on the object of the levy.
- (2) The board shall notify all growers of the amount of each levy and the method of collection.

Estimates.

27. (1) Before the end of a financial year, the board shall prepare estimates of its probable expenditure for the financial year next ensuing and at any time during a financial year, it may prepare estimates of any supplementary expenditure proposed to be incurred during the financial year.

(2) The estimates shall be submitted for approval to a general meeting of growers and a copy thereof, together with the board's proposals as to the manner in which the proposed expenditure is to be met, shall accompany the notice of the meeting.

(3) The proposals shall include details of any levy proposed to be raised and of any amounts which it is proposed should be raised for the purpose of establishing any reserve fund.

(4) The general meeting may approve the estimates subject to such conditions or variations as the meeting may decide.

Expenditure of funds.

28. The board shall not expend any funds nor incur any liabilities unless such funds or liabilities are included in an estimate which has been approved in terms of section 27.

Special levy.

29. (1) If any levy imposed in terms of section 26 is found to be insufficient to meet the authorized expenditure for which it was raised, and if there are no other funds in the hands of the board to meet that expenditure, it may impose a further levy to meet the shortfall.

(2) Such a levy shall be imposed in the same manner and on the same principles as the original levy.

(3) Notwithstanding any other provision in this Act, such levy may be imposed without the approval of a general meeting of growers.

(4) The imposition of such levy shall be reported by the board, together with full particulars of the circumstances in which it was imposed, at the first general meeting of growers after its imposition.

Accounts and annual report.

30. (1) The board shall keep proper accounts and other records in relation to its activities in the English language, and shall prepare statements of account by the thirtieth day of June following the end of each financial year, in such form as it, with the approval of the Minister, may direct and shall submit such statements to an auditor appointed under sub-section (2).

(2) The board shall appoint and may remunerate a duly qualified auditor annually to audit the accounts, other records and statements of account.

(3) The auditor shall make a report to the board on the accounts examined and the report shall state —

- (a) whether or not he has obtained all the information and explanations which he required, and
- (b) whether in his opinion the balance sheet contained in the statements of account is properly drawn up so as to exhibit a true and correct view of the state of the board's affairs according to the best of his information and explanations given to him, and as shown in the books of the board.

(4) Every auditor of the board's accounts shall have access at all reasonable times to the books and accounts and the vouchers of the board and may require, from the board, executive officers and members and officers and servants of the board, such information and explanations as may be necessary for the performance of the duties of the auditor.

(5) In addition to making his reports to the board, the auditor may make any statement or explanation to the Minister which he desires with respect to the accounts of the board which he has examined.

(6) As soon as possible after audit in accordance with this section, the board shall —

- (a) furnish the Minister with a report on its operations during the preceding financial year; and
- (b) deliver a copy of the duly audited statements of account for the year together with the auditor's report to the Minister.

(7) The Minister shall each year lay a copy of the duly audited statements of account of the board, together with the auditor's report; and the report furnished under subsection (6)(a) on the table of the House of Assembly.

Powers and duties of the board in financial matters.

31. (1) The board shall in its estimates and accounts make proper provision for the —

- (a) redemption of any loans;
- (b) depreciation or diminution of the value of its assets; and
- (c) payments of interest on, and all other charges and expenses incurred in connection with, loans.

(2) The board may create price stabilization funds and other reserve funds.

(3) Generally, the board shall conduct its affairs efficiently and economically in a manner calculated to be in the best interests of growers.

Surplus funds.

32. (1) If there are at any time any funds in the hands of the board not immediately required for its purposes and if in its opinion it is not reasonably necessary to invest those funds, they shall be distributed amongst growers.

(2) The distribution shall be determined by the board on such terms as to the amount thereof to each grower and the method of payment as the board may deem just and equitable in the circumstances, after taking into account the origin of the funds, and may be effected *pro rata* to the number of trees registered in terms of this Act, or to the quantity of fruit delivered by growers during any period:

Provided that, for the purposes of this sub-section and sub-section (4), “grower” includes a grower who was, but is no longer, a grower.

(3) Any distribution in terms of this section is subject to the approval of a general meeting of growers.

(4) Any registered grower who is aggrieved as to the manner of distribution, may apply to the High Court on motion, and the Court may, after hearing the board and any registered grower, give such directions as to the manner of distribution as to it seem equitable, and may make such order as to costs as it deems fit.

(5) A person aggrieved by any such decision may appeal from such decision in like manner as he may against any other civil judgment delivered in the High Court.

PART VI

MARKETING OF CITRUS FRUIT

Compulsory marketing.

33. (1) The board may direct that all or any quantity of citrus fruit, or any varieties thereof, shall be disposed of by the growers thereof, in accordance with its directions:

Provided that any ten growers possessing fifty per centum of the total votes which could be exercised by growers at a poll at a general meeting may appeal to the Minister to vary or amend such direction of the board and the Minister may give such decision he considers just, which decision shall be deemed to be the decision of the board.

(2) A grower who sells, donates, barter, gives in exchange for labour or otherwise disposes of citrus fruit otherwise than in terms of a direction of the board or otherwise than by destroying such fruit or using it for consumption by his family, employees or livestock, and a person who knowingly buys, receives by way of barter or exchange for labour or otherwise citrus fruit other than in terms of a direction of the board shall be guilty of an offence.

Powers and duties of board in regard to fruit delivered to it.

34. (1) The board shall accept his citrus fruit for sale from every registered grower:

Provided, however, that the board shall be entitled to refuse to accept for sale —

- (a) any citrus fruit not conforming to a standard or standards stipulated by the board from time to time suitable for consignment to various markets; or
- (b) any fruit which is tendered for delivery or is packed or in a condition contrary to any direction of the board; and
- (c) any citrus fruit for which, in the opinion of the board, an advantageous market cannot be found.

(2) The board shall sell or arrange the sale of fruit delivered to it from time to time to the best advantage of growers and shall receive the proceeds thereof on behalf of growers.

[ISSUE 1]

(3) The proceeds in respect of citrus fruit acquired from growers or disposed of by the board on behalf of growers shall, after deduction of the cost of disposal, be paid to growers rateably for their interest therein upon such terms as to provisional or final payments as the board may prescribe and the board may deduct from those proceeds any levies or other amounts due to it by a grower.

(4) In distributing the proceeds in terms of sub-section (3) the board may pool the proceeds of fruit of a particular variety; or delivered during a particular period; or of a particular standard or quality, and shall, after deduction of the cost of disposal of that fruit, distribute the proceeds so pooled to the growers who delivered the fruit, rateably according to their interest therein.

(5) Subject to sub-section (4), there shall be no discrimination between growers in the sale of fruit or the distribution of the proceeds.

(6) The board may direct the grades, standards of quality, markings of any citrus fruit, wrappers or any other package containing citrus fruit, the method of packing and treatment of the fruit and any other matters relating to the marketing of the fruit required to be delivered to it and may give any directions as to where and in what manner and to when fruit shall be delivered.

(7) For the purpose of this section, fruit delivered to the board shall be deemed to include fruit refused by it in terms of sub-section (1)(c) unless the fruit refused is the subject of a general direction to all growers made in terms of section 33(1).

PART VII

GENERAL

Power to require information.

35. (1) The board may require of a grower such information as it deems necessary concerning the production, actual or estimated, and, or, disposal of his citrus fruit.

(2) A grower who is required in writing by the board to supply information referred to in sub-section (1) shall, forthwith, supply that information.

(3) Any information supplied to the board under the terms of this section shall be treated by the board as confidential in so far as it discloses the affairs of any particular grower.

(4) A grower who, without just cause fails to supply, or falsely supplies, the information set out in sub-sections (1) and (2) shall be guilty of an offence.

Power to enter premises and inspect.

36. (1) The board may, acting through its representative authorized in writing, enter any orchard, packhouse or other premises used in the production or marketing of citrus fruit, in order to inspect the premises for any purpose under this Act, or to carry out any duties or work authorized under section 37.

(2) A person who wilfully hinders or obstructs such an authorized representative in the exercise of his duties shall be guilty of an offence.

Board may act as agent of the Government.

37. (1) The board may act as the agent of the Government for the carrying out of any work or operation required in respect of any citrus trees in terms of regulations made under the Plant Control Act, No. 8 of 1981.

(2) The board may recover from the owner of such trees any reasonable expenses incurred in carrying out that work or operation.

Execution of documents of the board.

38. A written contract or any other document expressed to be executed by or on behalf of the board shall be deemed to be duly so executed if signed by the chairman; or the secretary; or a person specially authorized by the board.

Exemption from stamp duties and fees of office.

39. No stamp duty and no fee of office in any public office or registration fee or court fee shall be chargeable in respect of any instrument, or the registration, lodgement, issue or use thereof, if the duty or fee thereon would, but for this section be legally payable by the board.

Indemnity.

40. (1) The Minister, the chairman and any member or alternate member, or a person acting under the authority of such a person or the board, shall not incur any personal liability in respect of anything, in good faith done, or purported to be done, or omitted in the execution of a function under this Act.

(2) A person mentioned in sub-section (1) is hereby indemnified out of the funds of the board against any liability in good faith incurred by him in the exercise of his functions.

Power to cancel or suspend registration.

41. (1) If a registered grower —

- (a) fails to comply with any direction lawfully given by the board; or
- (b) persistently sells or disposes of his fruit contrary to the provisions of this Act; or
- (c) wilfully refuses to pay any levy lawfully imposed; or
- (d) wilfully refuses to furnish any information which he is required to furnish under this Act;

the board may, by registered notice sent to his address recorded in the register of growers, require him to rectify the act or omission within thirty days of the posting of that notice.

(2) If that grower fails to rectify the act or omission within the period of the notice, the board may, after affording the grower an opportunity to be heard, order that his registration as a grower be cancelled or suspended on such terms and conditions as the board may deem just.

(3) The conditions imposed by the board may include such provisions as to the grower's rights and obligations during any period of suspension, including differential treatment as to payment of levies and delivery of fruit as the board may determine.

(4) A grower whose registration is suspended or cancelled may at any time apply to the board for re-registration or the removal of the suspension and the board may, upon such an application, make such order as may be fitting.

(5) A grower who is aggrieved by any order made under this section may in motion proceedings appeal against the decision of the board to the High Court, which, after hearing all interested parties, may make such order as in its judgment ought to have been the decision of the board and such order as to costs as may be just.

(6) A person aggrieved by the court's order may appeal in like manner as from any civil judgment of the High Court.

Eswatini Citrus Co-operative Company Limited.

42. (1) The body known as the Eswatini Citrus Co-operative Company Limited which was registered in terms of the repealed Co-operative Societies Proclamation (*Cap.* 179) is, for the removal of doubt, deemed to have operated lawfully, notwithstanding anything contained in the Co-operative Societies Act, No. 28 of 1964.

(2) The Eswatini Citrus Co-operative Company Limited shall upon the commencement of this Act be deemed to be dissolved.

(3) Upon the commencement of this Act, all the assets of the Eswatini Citrus Co-operative Company Limited shall vest in the board, and all things done, obligations incurred or rights acquired, by that body shall be deemed to have been done, incurred or acquired by the board at the time they were done, incurred or acquired by that Company.

Regulations.

43. The Minister may, after consultation with the board, make regulations, which shall be published in the *Gazette*, prescribing —

- (a) the method and forms to be used in calling for and submitting nominations, for election to the board, of members and alternate members;
- (b) the form of proxy to be used at area and general meetings of the board and the times when proxy shall be lodged;
- (c) the form of requisition for area and general meetings;
- (d) any matter relating to the procedure and voting at meetings not specifically provided for; and,
- (e) generally, for the better carrying out of the objects of this Act;

and those regulations may provide that any such form may be referred to by its number as approved by the Minister.

Directions of the board.

44. (1) Subject to this section, whenever the board is empowered in terms of this Act to give directions, the directions shall be made at a meeting of the board and not by a committee thereof.

(2) A direction of the board, other than a direction in terms of sub-section (3), shall be in writing, signed by the chairman and secretary, and a copy thereof shall be sent by registered post to the registered address of every registered grower.

(3) The Board may delegate the power to give directions to individual growers as to the date, time and place of delivery of fruit to a committee of its members or to one of its members or officers:

Provided that the directions shall conform with the general policy of the Board.

(4) The board may, generally or specially, adopt any direction of any marketing organization through which it may be marketing the fruit of growers and any directions so adopted shall be binding on growers as if they were directions of the board.

Penalties.

45. (1) A grower who fails to apply for registration in terms of section 13(1) or (2) or to notify any change of information in terms of section 13(3) shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred emalengeni or, in default of payment, thereof imprisonment for a period not exceeding six months, and the conviction shall not be a bar to further prosecution should the grower still fail to apply for registration or to supply any information.

(2) A person convicted of an offence in terms of section 33(2) shall be liable to a fine not exceeding four hundred emalengeni or, in default of payment thereof, imprisonment for a period not exceeding one year, and in addition the court convicting a grower in terms of that sub-section may order that the proceeds of any fruit sold or disposed of in contravention of that sub-section shall be forfeited to the board.

(3) An order made by a court under sub-section (2) —

(a) shall be deemed to be judgment for a civil debt in favour of the board and shall, in all respects, have the same validity as a judgment for that amount and the board may levy execution thereon;

(b) may be made by a magistrate's court established under the Magistrates Courts Act, No. 66 of 1938 notwithstanding the fact that the amount of the proceeds would otherwise exceed the civil jurisdiction of a magistrate's court.

(4) A person convicted of an offence in terms of section 35(4) shall be liable to a fine not exceeding two hundred emalengeni or in default of payment thereof, imprisonment for a period not exceeding six months and such conviction shall not be a bar to future prosecution should the person fail to supply information in response to a subsequent request by the Board.

(5) A person convicted of an offence in terms of section 36(2) shall be liable to a fine not exceeding one hundred emalengeni or, in default of payment thereof, imprisonment for a period not exceeding three months.

SCHEDULE*Citrus areas in terms of section 11.*

1. Northern area. That area of Eswatini which lies to the north of parallel of latitude twenty-six degrees eighteen minutes South.
 2. Southern area. That area of Eswatini which lies to the south of parallel of latitude twenty-six degrees forty minutes South.
 3. Central area. That area of Eswatini which falls between the Northern and Southern areas.
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