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CHAPTER 133

VANUATU COMMODITIES MARKETING BOARD

Act 10 of 1981
Act 18 of 1989
Act 14 of 1993
Act 2 of 1994
Act 25 of 2003
Act 15 of 2005

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VANUATU COMMODITIES MARKETING BOARD

To provide for the establishment of the Vanuatu Commodities Marketing Board, for the control and regulation of the marketing of prescribed commodities, and for matters connected therewith.

PART 1 – INTERPRETATION

1. Interpretation

In this Act unless the context otherwise requires –

“Board” means the Vanuatu Commodities Marketing Board established under section 4;

“Minister” means the Minister for the time being responsible for the administration of the Vanuatu Commodities Marketing Board;

“prescribed commodity” means a commodity declared a prescribed commodity under section 3;

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

PART 2 – CONTROL OF PRESCRIBED COMMODITIES

2. Control on export and import of prescribed commodities

From and after the commencement of this Act, no person other than the Board, its agents or persons authorised in writing by the Board shall export or import a prescribed commodity out of or into Vanuatu.

2AA. Importation of prescribed commodities

A prescribed commodity may only be imported if –

- (a) the prescribed commodity is to be used for processing and manufacturing purposes only; and
- (b) the prescribed commodity is required to substitute a shortage of supply by the local producers.

2A. Control on purchase of prescribed commodities

No person other than the Board, its agents or persons authorized in writing by the Board is to purchase a prescribed commodity in Vanuatu.

3. Minister to declare prescribed commodities

The Minister after consultation with the chairman of the Board may, by Order published in the Gazette declare a commodity a prescribed commodity under this Act.

PART 3 – ESTABLISHMENT OF THE VANUATU COMMODITIES MARKETING BOARD

4. Establishment of Board

There is hereby established a Board to be known as the Vanuatu Commodities Marketing Board which shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

5. Composition of the Board

- (1) The Board consists of 10 members who are to be appointed by the Minister.
- (1A) The members are:
 - (a) a representative of the Ministry responsible for agriculture; and
 - (b) the General Manager of the Board or his or her nominee; and
 - (c) a representative of the Ministry responsible for finance; and
 - (d) 2 representatives of the producers of the prescribed commodities; and
 - (e) a representative of the Cooperative Society; and
 - (f) a representative of the purchasers of the prescribed commodities; and
 - (g) 3 other members.
- (2) The Minister shall appoint the chairman and deputy chairman from amongst the members.
- (3) The term of office of appointed members shall be 2 years and such members shall be eligible for re-appointment.
- (4) A member may resign his office by notice in writing given to the Minister.
- (5) The Minister may remove a member from office by notice published in the Gazette.
- (6) The Minister on appointing a member in accordance with paragraphs (a) and (g) of subsection (1), shall nominate an alternate to such member who shall act during such member's temporary absence from Vanuatu or incapacity through illness.
- (7) An alternate member when acting in the place of a member shall enjoy all the rights of and exercise all the powers, functions and duties of the member he represents.
- (8) All appointments and nominations made under this section shall be published in the Gazette.

PART 4 – FUNCTIONS OF THE BOARD

6. Functions of the Board

- (1) The functions of the Board shall be as follows –
 - (a) to secure the most favourable arrangements for the purchase, sale, grading and export or import of prescribed commodities;
 - (b) to purchase prescribed commodities or products thereof and to sell, export or import the same;
 - (c) to develop or to assist in the development of the various prescribed commodity industries in the Republic of Vanuatu, including the manufacture and processing of prescribed commodities and related products, for the benefit and prosperity of those industries;
 - (d) to stabilise prices paid for prescribed commodities.
 - (e) to keep and maintain a register which is to contain details of persons purchasing the prescribed commodities and the producers of the prescribed commodities and such other information as the Board considers necessary to be included in the register.
- (2) In carrying out its functions under this Act, the Board shall so conduct its affairs as to avoid the need to rely on Government grants or subsidies.

7. Powers of the Board

In carrying out its functions under this Act, the Board shall have the following powers –

- (a) to purchase prescribed commodities produced in the Republic of Vanuatu which may be offered and delivered to the Board, after such commodities have been graded as suitable for export;
- (b) to control and fix prices from time to time payable to producers for prescribed commodities and to notify such prices;
- (c) to purchase prescribed commodities directly or through an agent and to do all things necessary for, and in connection with, the purchase of such commodities;
- (d) to sell prescribed commodities and to do all things necessary for, and in connection with their marketing, cleaning, storing for export and shipping;
- (e) to appoint agents for the purchase, storage, export and import of prescribed commodities for such periods and on such terms and conditions as the Board may require;
- (f) to grant, withhold or cancel any written authority provided for by section 2 and to impose conditions upon the grant of such authority;
- (g) to purchase, hold, manage and dispose of real or personal property;
- (h) to establish pension schemes or any other welfare schemes for the benefit of its officers and employees;
- (i) subject to the prior approval of the Minister, to borrow or lend money on such terms and conditions as the Board thinks fit;
- (j) to do all that is necessary or required to be done in respect of its functions under this Act.

7A. Power of Board to require information

The Board may, by notice served on any person who at the date of the notice or at any subsequent time, carries on a trade or business which includes the manufacture, preparation, sale, export or import of any prescribed commodity, require such person to furnish to the Board, within such time as may be specified in the notice, such information or data as may be reasonably specified in respect of such prescribed commodity.

PART 5 – MEETINGS OF THE BOARD

8. Meetings of the Board

- (1) Meetings of the Board shall be held at such times and places as the chairman or in his absence the deputy chairman, may from time to time appoint.
- (2) The quorum at meetings of the Board shall be four members, including the chairman or in his absence, the deputy chairman.
- (3) The chairman, or in his absence the deputy chairman, shall preside at every meeting of the Board. Where neither the chairman nor the deputy chairman is present at a meeting of the Board, the Board shall elect one of its members to be chairman for that meeting and such member acting as chairman shall have and exercise all the powers of the chairman under this Act.
- (4) The proceedings at any meeting shall not be invalidated by any defect in the appointment of a member.
- (5) Decisions of the Board shall be made by a majority vote of members present and voting. The chairman or the deputy chairman, as the case may be, shall have a casting vote.

- (6) If a member has any pecuniary interests, direct or indirect in any contract or proposed contract or other matter relating to the Board, he shall as soon as practicable disclose to the chairman of the Board the fact and nature of his interest.
- (7) The Board may invite any person or persons to participate in meetings of the Board but they shall have no vote.
- (8) Subject to this Act, the Board may make internal rules regulating its procedures for the chairmanship, and the calling, conducting and adjournment of meetings of the Board.
- (9) Any rules made in accordance with subsection (8) shall be issued under the hand of the chairman or the secretary of the Board.

PART 6 – ADMINISTRATION OF THE BOARD

9. General manager, officers and employees of the Board

- (1) The Board shall, with the prior approval of the Minister and subject to subsection (2), appoint a General Manager of the Board upon such terms and conditions as it thinks fit.
- (2) The General Manager who shall be the chief executive of the Board and of all its operations, shall be appointed for a term not exceeding five years and may with the prior approval of the Minister be eligible for re-appointment.
- (3) The Board may appoint and employ a secretary to the Board and such other officers and employees as may be required for the proper and efficient discharge of the functions of the Board.

10. Delegation of powers and functions of the Board

The Board may, by resolution or otherwise, delegate to the general manager with or without restrictions or conditions, such of its powers and functions as it deems expedient for the efficient discharge of the day to day operations of the Board.

11. Immunity from liability

No personal liability shall attach to any member, officer or employee of the Board in respect of anything done or not done in good faith, and without negligence in the course of the operation of the Board.

PART 7 – FINANCIAL PROVISIONS

12. Interpretation

In this Part –

"commodity division" means the separation of accounts and funds in respect of each prescribed commodity;

"prescribed commodity" includes products thereof.

13. Funds of the Board

The funds of the Board shall consist of the following –

- (a) monies derived from the sale of prescribed commodities by the Board and any interest accruing from the investment of such monies;
- (b) monies borrowed by the Board;

- (c) all sums received by or falling due to the Board in respect of the repayment of any loan made by the Board or the interest receivable in respect of any such loan;
- (d) grants from Government;
- (e) grants from other sources;
- (f) monies received by the Board in any other way in the course of the discharge of its functions.

14. Application of funds

Subject to section 15, the Board may from time to time apply the funds at its disposal or any part thereof to –

- (a) the purchase of a prescribed commodity;
- (b) the proper and efficient discharge of its functions, responsibilities and operations under this Act;
- (c) the payment of salaries, allowances and expenses of its officers and employees and, subject to the approval of the Minister, allowances for its members;
- (d) stabilising prices paid for prescribed commodities.

15. Separation of funds and accounts of the Board into commodity divisions

(1) Accumulated funds of each individual prescribed commodity after revenues and expenditures for that prescribed commodity have been taken into account shall be for the use of that commodity division only.

(2) Notwithstanding subsection (1) –

- (a) any expenses of an administrative or general nature not directly attributable to any one commodity division shall be allocated to commodity divisions in such proportion as the Board may determine;
- (b) where funds in respect of any one commodity division are exhausted and there are surplus funds in accounts of any other commodity or commodities such portion of the surplus funds may be transferred to the exhausted account as the Board may determine.

(3) Where any funds are transferred under subsection (2)(b), such funds shall be repaid from the funds of the exhausted commodity when it has surplus funds.

16. Surplus funds to be invested

Any surplus funds generated by the Board in the course of carrying out its functions and powers may be invested in such manner as the Board may approve.

17. Accounts of the Board

(1) The Board shall keep proper accounts and other records in respect of its receipts and expenditure and shall cause to be prepared an annual statement of accounts in respect of each financial year.

(2) The accounts of the Board shall be made up to 30 September in each financial year and shall be audited by an independent and properly qualified auditor approved by the Minister and appointed by the Board.

(3) Fees payable to the auditor appointed under subsection (2) shall be paid out of the funds of the Board.

(4) The Board shall provide the Minister and the Auditor General of Vanuatu each with a copy of the audited accounts and report thereon by the auditor referred to in subsection (2).

18. Annual report

After 30 September in each year, the Board shall prepare a report of its operations during the preceding year and shall send a copy to the Minister and publish the same in such manner as the Minister may direct.

19. Dissolution of the Board

In the event of the dissolution of the Board, any funds remaining at the disposal of the Board after the discharge of all debts and liabilities shall be distributed for the benefit of prescribed commodity producers in accordance with the directions of the Board and in proportion to each commodity division's net worth at the time of dissolution.

PART 8 – OFFENCES AND PENALTIES

20. Penalty

- (1) Any person who contravenes the provisions of sections 2 or 7A shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 1,000,000 or to imprisonment for a term not exceeding 12 months, or to both.
- (2) Where an offence against sections 2 or 7A is committed by a corporation and whether or not the corporation has been prosecuted or convicted, every person who at the time of the commission of the offence was a director or officer of the corporation shall be guilty of the like offence and is liable on conviction to the punishment provided for the offence upon proof that the act constituting the offence took place with his knowledge or consent, or that he failed to exercise due diligence to prevent the commission of such offence.

20A. Secrecy

- (1) No member of the Board, nor any officer or employee or consultant shall disclose to any person any information relating to the affairs of the Board or of any business enterprises associated with the Board or other person which he has acquired in the performance of his duties except for the purpose of the performance of his duties or as lawfully required by a court.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 200,000 or to imprisonment for a term not exceeding 1 year, or to both such fine and imprisonment.

20B. Purchasing prescribed commodities below prices fixed by the Board

If a person purchases a prescribed commodity below the price fixed by the Board, the person is guilty of an offence punishable on conviction by –

- (a) for the purchase of a prescribed commodity under 100 tonnes – a fine not exceeding VT 100,000 or a term of imprisonment of not more than one year, or both; or
- (b) for the purchase of a prescribed commodity of 100 tonnes or more – a fine not exceeding VT 100,000 for each 100 tonnes or a term of imprisonment of not more than one year, or both.

21. False representation

Any person who falsely holds himself out or represents himself to be an agent or a person acting on the authority or instructions of the Board, shall commit an offence and shall be liable on conviction to a fine not exceeding VT 100,000 or to imprisonment for a term not exceeding 6 months, or to both.

PART 9 – OTHER MATTERS

22. Directions by Minister

The Minister, after consultation with the Board may give to the Board such directions of a general character with respect to the performance of any functions of the Board as appear to the Minister to be requisite in the public interest.

22A. Reporting requirement

- (1) A person or his agent who purchases prescribed commodities must provide the Board each year with quarterly reports in a form prescribed by the Board.
- (2) If a person fails to provide a report required under subsection (1), the person commits an offence punishable on conviction by a fine not exceeding VT 50,000.

23. Regulations

The Minister may by Order make regulations not inconsistent with this Act for the better carrying out of the objects and purposes of this Act.

Table of Amendments (since the Revised Edition 1988)

1	<i>Amended by Act 14 of 1993</i>	7A	<i>Inserted by Act 2 of 1994, amended by Act 15 of 2005</i>
2	<i>Amended by Act 15 of 2005</i>		
2AA	<i>Inserted by Act 15 of 2005 (renumbered from 2A to 2AA)</i>	9	<i>Substituted by Act 18 of 1989</i>
2A	<i>Inserted by Act 25 of 2003</i>	15(2)	<i>Substituted by Act 2 of 1994</i>
5(1)	<i>Substituted by Act 25 of 2003</i>	15(3)	<i>Inserted by Act 2 of 1994</i>
5(1A)	<i>Inserted by Act 25 of 2003</i>	20(1) & (2)	<i>Amended by Act 2 of 1994</i>
6(1)(a),(b)	<i>Amended by Act 15 of 2005</i>	20A	<i>Inserted by Act 2 of 1994</i>
6(1)(e)	<i>Inserted by Act 25 of 2003</i>	20B	<i>Inserted by Act 25 of 2003</i>
7(e)	<i>Amended by Act 15 of 2005</i>	Part 9 title	<i>Inserted by Act 25 of 2003</i>
		22A	<i>Inserted by Act 25 of 2003</i>