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COMMONWEALTH OF DOMINICA

ACT No. 2 OF 2009

I assent*N. J. O. Liverpool*
*President*23rd March, 2009**AN ACT TO PROVIDE FOR THE QUALITY CONTROL
OF THE EXPORT OF FRESH PRODUCE, THE
INSPECTION OF FRESH PRODUCE; THE
LICENCING OF EXPORTERS OF FRESH
PRODUCE; REGISTRATION OF PACKING
HOUSES AND FOR RELATED MATTERS.**

(Gazetted 2009.)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:**PART I
PRELIMINARY**

1. This Act may be cited as the -

Short title.

**FRESH PRODUCE EXPORT QUALITY
CONTROL ACT 2009.**

2. In this Act -

“Appeals Tribunal” means the Appeals Tribunal established under section 48;

“Authority” means the Fresh Produce Export Quality Control Authority established under section 3;

“Bureau of Standards” means the Bureau of Standards established under the Standards Act;

“certificate of inspection” means a certificate of inspection issued under section 39;

“certificate of registration” means a certificate of registration issued pursuant to section 24;

“Director” means the Director of the Bureau of Standards;

“export” means to send or transport abroad for the purpose or in the course of trade or to offer or market for the purpose of sending or transporting abroad in the course of trade;

“fresh produce standards” means standards in relation to fresh produce as declared under the Standards Act;

“fresh produce” means any fruit, nut, vegetable, root crop, flowers, non-edible foliage, ornamental produce, plant or other plant material specified in the Schedule;

“inspector” means a person appointed under section 6 as an inspector;

“licence” means a fresh produce export quality control licence issued under section 11;

“licensee” means the holder of a licence;

“marketing” means the production and promotion of fresh produce and includes the conveyance purchase and sale of fresh produce and any other act necessary to make fresh produce available for consumption or use;

“Minister” means the Minister responsible for trade;

“owner” includes the tenant or person in actual possession of, and the manager or other person who has authority over premises;

“packing house standards” means standards in relation to fresh produce packing houses as declared under the Standards Act;

“packing house” means premises where fresh produce is cleaned, graded, stored, packed or otherwise prepared for export;

“package” means a product of any nature used for the containment, protection, handling, delivery or presentation of fresh produce from the producer to the consumer;

“prescribed “ means prescribed in the Regulations;

“register” in relation to a licence means a register kept under section 15 and in relation to a packing house means a register kept under section 29;

“registered packing house” means a packing house registered under section 24;

“Regulations” means the Regulations made under section 50;

“Standards Act” means the Standards Act 1999 or any enactment replacing it; Act No. 4 of 1999.

“standards” means specifications declared by Order of the Bureau of Standards to be standards under the Standards Act;

PART II ADMINISTRATION

3. The Bureau of Standards, established under the Standards Act is the Fresh Produce Export Quality Control Authority for the purposes of this Act. Fresh Produce Export Quality Control Authority.

- 4.** (1) The Authority shall – Functions of the Authority.
- (a) consider and determine applications for fresh produce export quality control licences and registration of packing houses;
 - (b) issue licences and certificates of registration;
 - (c) identify areas in the fresh produce export market which require monitoring and inspection;

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- (d) prepare and submit to the Minister reports on matters relating to the quality of fresh produce for export which the Authority or the Minister may from time to time consider necessary or desirable;
 - (e) advise on measures which may be taken to maintain or improve the quality of fresh produce for export;
 - (f) advise on the training which licensees should undergo in order to ensure that fresh produce for export meet local, regional and international standards;
 - (g) advise on, plan, organize and pursue the training of all personnel required for the proper administration of this Act;
 - (h) specify, fresh produce standards, packing house standards, packaging standards and labelling standards;
 - (i) at least once a year in at least one local newspaper publish the requirements to be met by persons to qualify for a licence and a certificate of registration;
 - (j) do all other things necessary for carrying out the provisions of this Act as are authorised by this Act.

(2) The Authority is responsible for the proper performance of its functions under this section but may for the purpose of such performance, as it thinks fit -

- (a) consult with or obtain advice from other persons or authority; or
- (b) engage other persons to carry out work on its behalf.

(3) Without restricting the generality of the foregoing, the Authority may delegate any of its duties to the Director.

5. (1) The Director of the Bureau of Standards appointed under the Standards Act is hereby appointed as the Director of the Authority. Director.

(2) The Director has the powers conferred on him or her by this Act and shall discharge the duties required of him or her by this Act or by the direction of the Authority.

6. (1) The Authority may employ inspectors and other staff as are necessary for the proper functioning of the Authority. Inspectors and other staff.

(2) The Authority shall issue identification card in the form prescribed to an inspector.

7. The Minister, members of the Authority, the Director, inspectors or other staff of the Authority shall not be personally liable for or in respect of, any act done or omitted to be done in good faith, in the exercise of any functions under or power conferred by this Act. Protection from liability.

PART III FRESH PRODUCE EXPORT QUALITY CONTROL LICENCE

- 8.** (1) A person shall not export fresh produce, unless- Prohibition.
- (a) the person is the holder of a valid fresh produce export quality control licence;
 - (b) the fresh produce intended for export -
 - (i) was cleaned, graded, stored, packaged, labelled, packed or otherwise prepared for export in a registered packing house;
 - (ii) has been inspected and determined to be fit for export by an inspector and has not been rejected by an inspector;
 - (iii) is packaged and labelled as required by sections 34 and 35;
 - (iv) conforms to fresh produce standards; and

(c) the person complies with the conditions of the licence, this Act and the Regulations.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars or to imprisonment for a term not exceeding six months or to both.

(3) A person who is not the holder of a valid licence who holds himself out as or pretends to be a holder of a valid licence commits an offence and is liable to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding three months or to both.

Application for a licence.

9. (1) Subject to subsection (2), a person who wishes to obtain a licence shall make an application to the Authority for the same.

(2) An application under subsection (1) shall be in the form prescribed and shall, contain the following information -

- (a) the applicant's trading name, address and identification number;
- (b) the location of the packing house where the applicant proposes to clean, grade, store, package, label, pack and otherwise prepare the fresh produce for export;
- (c) the name and type of the fresh produce which the applicant intends to export; and,
- (d) whether or not the application is for a first time licence.

(3) An application under subsection (1) shall be accompanied by the prescribed application fee and -

- (a) evidence of the applicant's ownership of the premises that are intended to be used as a packing house; or

(b) where the applicant is not the owner of the premises that he or she intends to use as a packing house, evidence of the ownership of the premises together with a letter from the owner of the premises authorising use of the premises as a packing house and a copy of the lease if any in the applicant's favour in respect of the premises.

10. (1) Where the Authority, having considered the application made under section 9 and any further information received, and having regard to subsection (3), is of the opinion that the application should be refused, the Authority shall, subject to subsection (2), give notice in the form prescribed to the applicant of the Authority's intention to refuse the application. Refusal of licence.

(2) In a notice given under subsection (1), the Authority shall give reasons in writing for the intention to refuse the application and shall inform the applicant of his or her right to make written representations to the Authority under subsection (4).

(3) The Authority may refuse an application made under section 9 on the following grounds –

- (a) that the applicant has previously had a licence suspended or revoked or registration of a packing house suspended or cancelled under this Act;
- (b) the applicant has been convicted of an offence under this Act;
- (c) the applicant has failed to obtain permission to use a registered packing house to clean, grade, store, pack and otherwise prepare the fresh produce for export as required by this Act.

(4) An applicant who receives a notice under subsection (2) may make written representations to the Authority within 14 days after receipt of the notice under subsection (1).

(5) The Authority shall have regard to any representations made by the applicant within the time specified under subsection (4) and shall, within 14 days of the receipt of the written representations, give notice in the prescribed form, to the applicant of its decision, the reasons for refusal, if any, and the applicants right of appeal under section 47.

Issuance of licence.

11. (1) Where an application is made to the Authority under section 9 and the applicant -

- (a) is not under eighteen years of age;
- (b) has completed the training approved by the Authority; and
- (c) has satisfied the requirements of this Act,

the Authority may, on payment by the applicant of the prescribed licence fee and subject to subsection (2), issue a licence to the applicant.

(2) A licence issued under subsection (1), shall be in the form prescribed and shall contain-

- (a) the licence number;
- (b) the period of validity of the licence;
- (c) the conditions, if any, subject to which the licence is granted.

Duration of licence.

12. (1) Subject to subsection (2), a licence shall, be valid for a period not exceeding 12 months.

(2) A licence shall take effect from the date specified in it and shall, unless suspended or revoked by the Authority, remain in operation until its expiry.

Licence not transferable.

13. A licence is not transferable.

14. A licensee shall inform the Authority of any change in the information submitted to the Authority in an application made under section 9, within 7 days of the change and the Authority may, if satisfied that the change is not material or does not amount to a breach of the licence, amend the licence.

Amendments to licence.

15. (1) The Authority shall keep and maintain a register of all licences issued, and the register shall contain the name and address of licensees, the date of issue of licences, the suspension and revocation of licences, any other relevant information as determined by the Authority.

Register of licences and publication in the *Official Gazette*.

(2) A list of all licenses issued, suspended and revoked under this Act shall be published annually in the Official Gazette.

16. (1) Where an allegation of breach of this Act, the Regulations or the terms of a licence is made to the Authority or where the Authority reasonably suspects that a licensee is in breach of this Act, the Regulations or the licence, the Authority shall, if it considers necessary, conduct an investigation in accordance with subsection (2).

Breaches by the licensee.

(2) The Authority may perform any of the following in the course of an investigation under subsection (1)-

- (a) compel the production of documents and records in the custody of the licensee;
- (b) compel the appearance of an employee or officer of the licensee, or any other person for the purpose of ascertaining compliance with this Act, the Regulations or the licence;
- (c) inspect, examine or make copies of any document or record in the possession of the licensee relevant to the licence held by the licensee;
- (d) require verification of income or any other matter pertinent to the licence;

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- (e) enter or inspect any packing house for the purpose of ascertaining compliance with this Act, the Regulations or the licence;
 - (f) seize, remove or impound any document or records relating to the licence for the purpose of examination and inspection.

(3) Where an investigation is being carried out by the Authority under subsection (2), the Authority may consult any Department of Government or statutory body likely to be affected, and shall send to the Department of Government or statutory body likely to be affected, a copy of any report prepared by the Authority in consequence of any investigation made under this section.

(4) Where, after conducting an investigation in accordance with this section, the Authority finds that-

- (a) the person's allegations or the Authority's suspicions are substantiated, it shall notify the licensee of its findings and where appropriate issue directions to the licensee requesting the licensee to -
 - (i) stop the breach and take remedial action, stipulating the time period within which such remedial action is to be completed; and
 - (ii) compensate any person aggrieved for any foreseeable damages caused by the breach within a specified period; or
- (b) if the person's claim is frivolous or vexatious or if the Authority's suspicions are incorrect, it shall stop its investigations.

Suspension or
revocation of a licence.

17. (1) Subject to subsection (2), where a licensee fails to comply with a direction of the Authority under section 16, the Authority may, suspend or revoke the licence in accordance with the terms of the licence.

(2) Where the Authority intends to suspend or revoke a licence under this section, the Authority shall give the licensee notice in the prescribed form of its intention to do so and reasonable opportunity to show cause why the licence should not be suspended or revoked.

(3) Where the Authority suspends or revokes a licence, the Authority shall give the licensee notice in writing of the suspension or revocation of the licence, reasons for the suspension or revocation, and the licensee's right of appeal in accordance with section 47.

18. A licensee who fails to comply with a direction of the Authority under section 16 commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding six months or to both.

Offence of not complying with direction of Authority.

PART IV PACKING HOUSES

19. (1) A person shall not use premises as a packing house for fresh produce, unless-

Prohibition.

- (a) the premises is a registered packing house; and
- (b) the person complies with the packing house standards, the conditions of registration, this Act and the Regulations.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars or to imprisonment for a term not exceeding six months or to both.

20. A person who is the owner of premises that is not a registered packing house and who holds the premises out as a registered packing house or pretends that the premises is a registered packing house commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding three months or to both.

Pretending to have registered packing house.

Application for
registration as a packing
house.

21. (1) Subject to subsection (2), a person who wishes to register premises as a packing house shall make an application to the Authority for the same.

(2) An application under subsection (1) shall be in the form prescribed and shall contain the following information –

- (a) the applicant's trading name, address and identification number;
- (b) the location of the premises to be registered as a packing house;
- (c) the type and name of the fresh produce which the applicant wishes to clean, grade, store, package, label and pack or otherwise prepare for export in the packing house; and
- (d) whether or not the application is for a first time registration.

(3) An application under subsection (1) shall be accompanied by the prescribed application fee and-

- (a) evidence of the applicant's ownership of the premises that are intended to be used as a packing house; or
- (b) where the applicant is not the owner of the premises that he or she intends to use as a packing house, evidence of the ownership of the premises together with a letter from the owner of the premises authorising use of the premises as a packing house and a copy of the lease in the applicant's favour in respect of the premises.

Inspection.

22. Where the Authority receives an application under section 21, an inspector shall prepare and submit to the Authority a report on the compliance of the premises with this Act, the standards declared under the Standards Act and other requirements specified by this Act or the Authority.

23. (1) Where the Authority, having regard to subsection (3) and having considered the application made under section 21, the report of the inspector under section 22 and any further information received, is of the opinion that the application should be refused, the Authority shall, subject to subsection (2), give notice in the form prescribed to the applicant of the Authority's intention to refuse the application. Refusal of registration.

(2) In a notice given under subsection (1), the Authority shall give reasons in writing for the intention to refuse the application and shall inform the applicant of his or right to make written representations to the Authority under subsection (4).

(3) The Authority may refuse an application made under section 21 on the following grounds -

- (a) that the applicant has previously had a licence suspended or revoked or registration of a packing house suspended or cancelled under this Act;
- (b) the applicant has been convicted of an offence under this Act;
- (c) the applicant has failed to meet the packing house standards.

(4) An applicant who receives a notice under subsection (2) may make written representations to the Authority within 14 days after receipt of the notice under subsection (1).

(5) The Authority shall have regard to any representations made by the applicant within the time specified under subsection (4) and shall, within 14 days of the receipt of the written representations, give notice of the refusal in the prescribed form to the applicant of its decision, the reasons for the refusal, if any, and the applicants right of appeal under section 47.

24. (1) Where an application is made to the Authority under section 23 and the applicant - Issuance of certificate.

- (a) is not under eighteen years of age;

(b) has completed the training approved by the Authority; and

(c) has satisfied the requirements of this Act, the Authority may, on payment by the applicant of the prescribed registration fee, register the packing house and subject to subsection (2), issue a certificate of registration in the prescribed form in respect of the premises.

(2) A certificate of registration shall specify-

(a) the name and address of the holder of the certificate of registration;

(b) the location of the packing house;

(c) the registration number of the packing house;

(d) the period of validity of the certificate of registration;

(e) the conditions, if any, subject to which the packing house is registered

Duration of registration.

25. (1) Subject to subsection (2), a certificate of registration as a packing house shall be valid for a period not exceeding 12 months.

(2) A certificate of registration shall take effect from the date specified in it and shall, unless suspended or cancelled by the Authority, remain in operation until its expiry.

Certificate of registration not transferable.

26. A certificate of registration is not transferable.

Conditions of registration.

27. The following conditions apply to registration as a packing house and must be complied with by the holder of a certificate of registration -

(a) there must be compliance with packing house standards;

(b) all fresh produce that is exported from a packing house shall be cleaned, graded, stored, packaged,

labelled, packed or otherwise prepared for export in accordance with the standards declared under the Standards Act for the fresh produce;

- (d) a package containing fresh produce for export shall have a distinct mark showing the registration number of the packing house;
- (e) the holder of the certificate of registration in respect of a packing house shall submit to the Authority the name of a competent individual, whether or not the owner, who is knowledgeable of the standards and the law in force in Dominica relating to fresh produce who shall be responsible for the supervision of operations in the packing house; and
- (f) the holder of a certificate of registration shall keep and maintain accurate records relating to the export of fresh produce including the date of shipments, the name and type of fresh produce and the size of shipment.

28. The holder of a certificate of registration shall inform the Authority of any change in the information submitted to the Authority in an application made under section 23, within 7 days of the change and the Authority may, if satisfied that the change is not material or does not amount to a breach of the registration, amend the registration.

Amendments to
registration.

29. The Authority shall keep and maintain a register of registered packing houses and the register shall contain the name and address of holders of certificates of registration, the registration number of the packing house, the date of issue of the certificate of registration, the suspension and revocation of the certificate of registration, and any other relevant information as determined by the Authority.

Register of packing
house.

Publication in the
Official Gazette.

30. A list of all registered packing houses, the names of holders of certificates of registration, and registrations suspended or revoked under this Act shall be published annually in the Official Gazette.

Breaches by the holder of
a certificate of
registration.

31. (1) Where an allegation of breach of this Act, the Regulations or the terms of registration is made to the Authority or where the Authority reasonably suspects that a holder of a certificate of registration is in breach of this Act, the Regulations, packing house standards or the conditions of registration, the Authority shall, if it considers it necessary, conduct an investigation in accordance with subsection (2).

(2) The Authority may perform any of the following in the course of an investigation under subsection (1) -

- (a) compel the production of documents and records in the custody of the holder of the certificate of registration;
- (b) compel the appearance of an employee or officer of the holder of a certificate of registration, or any other person for the purpose of ascertaining compliance with the terms of registration of the packing house, this Act or the Regulations;
- (c) inspect, examine or make copies of any document or record in the possession of the holder of the certificate of registration relevant to the registration of the packing house ;
- (d) require verification of income or any other matter pertinent to the registration of the packing house;
- (e) enter or inspect any packing house for the purpose of ascertaining compliance with this Act, the Regulations or the terms of registration of the packing house;
- (f) seize, remove or impound any document or records relating to the registration of the packing house for the purpose of examination and inspection.

(3) Where an investigation is being carried out under subsection (2), the Authority may consult any Department of Government or statutory body likely to be affected, and shall send to the Department of Government or statutory body likely to be affected, a copy of any report prepared by the Authority in consequence of any investigation made under this section.

(4) Where, after conducting an investigation in accordance with this section, the Authority finds that-

(a) the person's allegations or the Authority's suspicions are substantiated it shall in writing notify the holder of the certificate of registration of its findings and where appropriate issue directions to the holder of the certificate of registration requesting the holder of the certificate of registration to-

(i) stop the breach and take remedial action, stipulating the time period within which such remedial action is to be completed; and

(ii) compensate any person aggrieved for any foreseeable damages caused by the breach within a specified period;

(b) the person's claim is frivolous or vexatious or if the Authority's suspicions are incorrect, it shall stop its investigations and the person bringing the action shall be liable for the cost incurred.

32. (1) Subject to subsection (2), where the holder of a certificate of registration fails to comply with any direction of the Authority under section 31, the Authority may, suspend or cancel the registration in accordance with the terms of the registration.

Suspension or
cancellation of
registration.

(2) Where the Authority intends to suspend or cancel registration under this section, the Authority shall give the holder

of the certificate of registration notice in the prescribed form in writing of its intention to do so and reasonable opportunity to show cause why the registration should not be suspended or cancelled.

(3) Where the Authority suspends or cancels registration, the Authority shall give the holder of the certificate of registration notice in writing of the suspension or cancellation of the registration and the reasons for the suspension or cancellation and the right to appeal in accordance with section 47.

Offence of not complying with direction of Authority.

33. A holder of a certificate of registration who fails to comply with a direction of the Authority under section 31 commits an offence and upon summary conviction is liable to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding six months.

PART V PACKAGING AND LABELLING

Packaging.

34. (1) A person who intends to export fresh produce shall ensure that the fresh produce to be exported is packed and shipped in approved packages in accordance with the package requirements for that category of fresh produce and in compliance with the Standards Act and any other law in force in Dominica relating to packaging of fresh produce for export.

(2) A person shall not wilfully tamper with a package or its contents after the package or contents was examined by an inspector and certified fit for export under this Act.

Labelling.

35. A person who intends to export fresh produce in the course of trade shall ensure that the package in which fresh produce for export is kept is marked legibly and in plain letters on the outside of the package or is otherwise in compliance with the Standards Act and any other law in force in Dominica relating to labelling of fresh produce for export.

36. A person who contravenes section 34 or 35 commits an offence and is liable on summary conviction to a fine of five thousand dollars or imprisonment for one month or both.

Contravention of section 34 or 35.

PART VI INSPECTION

37. (1) A person shall not export or attempt to export fresh produce unless the fresh produce has been inspected by an inspector and a certificate of inspection issued in respect of the fresh produce.

Prohibition on export without inspection.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding three months or to both.

38. (1) A person who intends to export fresh produce shall make an application to the Authority in the prescribed form at least one working day prior to the proposed date of inspection for the fresh produce to be inspected indicating the person's intention to export fresh produce and the place where the fresh produce may be inspected.

Application for inspection.

(2) An application made under subsection (1) shall be accompanied by the prescribed inspection fee.

(3) Where an application is made under subsection (1), the Director shall designate an inspector to conduct the inspection.

(4) An inspector designated under subsection (3) may at reasonable times enter a packing house or other place where the fresh produce intended for export is located for the purposes of inspecting the fresh produce, and its packaging and labelling.

39. (1) Where on an inspection conducted under an application made under section 38(1) an inspector is satisfied that the fresh produce for export –

Certificate of inspection.

-
- (a) was packed in a registered packing house;
 - (b) is packaged and labelled as required by sections 34 and 35; and
 - (c) conforms to fresh produce standards,
- the inspector shall issue to the person who intends to export the fresh produce inspected with a certificate of inspection in the prescribed form.

(2) A certificate of inspection issued under subsection (1) shall be valid for the period specified in it.

Rejected fresh produce.

40. A person who packs fresh produce for export or who exports fresh produce which has been inspected and rejected by an inspector commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three months to or both.

Entry by inspector.

41. (1) An inspector may, at reasonable times enter a packing house where the inspector believes fresh produce to which this Act applies is cleaned, graded, stored, packaged, labelled or otherwise prepared for export.

(2) An inspector shall produce his or her identification card issued under section 6(2) when exercising his or her powers under this Part.

(3) An inspector who enters a packing house place under subsection (1) may -

- (a) open and examine any container or packaging that he or she reasonably believes contains any fresh produce;
- (b) inspect, examine and take samples of fresh produce free of any charge;
- (c) examine anything that he or she reasonably believes to be used or to be capable of being used for the cleaning, grading, storing, packaging, labeling or otherwise prepared for export;

(d) examine any packaging of or label used in relation to fresh produce.

42. (1) At the point of export, a police officer, an inspector or a customs officer may -

Inspection at time of export.

(a) call for and inspect the licence of a person who is exporting fresh produce; and

(b) examine any fresh produce in the possession of a person who is exporting fresh produce.

(2) A licensee or other person who –

(a) fails or neglects to produce his or her licence under subsection (1); or

(b) obstructs or resists the examination of fresh produce,

shall be prohibited from exporting the fresh produce.

43. Where an inspector believes on reasonable grounds that a licence or certificate of registration, this Act or the Regulations have been contravened, the inspector may seize and detain any fresh produce in relation to which or other thing by means of which the inspector believes the contravention was effected.

Detention and seizure.

44. The owner of a place entered by an inspector under section 41 and any employee or agent present at the time of entry shall give the inspector all reasonable assistance to enable the inspector to carry out his or her duties and functions under the Act and shall furnish the inspector with such information as the inspector may reasonably require to carry out his or her functions.

Duty to give assistance.

45. A person who obstructs or interferes with an inspector or who declines to facilitate an inspector in carrying out of the inspection or the performance of his or her duties commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding three months or both.

Obstruction and interference.

PART VII
APPEAL

Appeals Tribunal.

46. (1) For the purposes of this Act there is established an Appeals Tribunal comprising a chairperson and two other members to be appointed by the Minister.

(2) The members of the Appeals Tribunal including the chairperson shall be appointed on such terms and conditions as the Minister determines and for a period not exceeding 3 years and shall be eligible for reappointment.

(3) It is the duty of a member of the Appeals Tribunal who is in any way directly or indirectly interested in a matter coming up before the Appeals Tribunal to declare the nature of his or her interest in the matter as soon as it is practicable for the member to do so, and the member shall be disqualified from taking part in the hearing of the matter and shall not take part directly or indirectly in any deliberation, discussion, consideration or decision of the Appeals Tribunal on that matter.

(4) Where a member of the Appeals Tribunal is disqualified from participating in the hearing of a matter under subsection (3), the Minister shall appoint a person to replace the member so disqualified, for the duration of the hearing of the matter in which the member has an interest.

(5) Subject to the approval of the Minister, the Appeals Tribunal shall regulate its own procedure.

Appeal.

47. (1) A person aggrieved by or dissatisfied with a decision of the Authority made under this Act may, in accordance with this section, appeal to the Appeals Tribunal.

(2) A person who wishes to appeal against a decision under subsection (1) shall, subject to subsection (3) and within 7 days of the receipt of notice of the decision, submit a notice of appeal to the Appeals Tribunal and to the Authority.

(3) A notice of appeal under subsection (2) shall be in the prescribed form and shall set out the following:

- (a) the name of the appellant;
- (b) the decision to be appealed against, and
- (c) the grounds on which the appellant wishes to appeal the decision.

(4) Within 10 working days of the receipt of a notice of appeal the Appeals Tribunal shall notify the appellant and the Authority of a date for the hearing of the appeal.

(5) On the hearing of the appeal the Appeals Tribunal may –

- (a) allow the appeal in whole or in part and set aside the decision of the Authority;
- (b) if it allows the appeal, vary the decision of the Authority;
- (c) correct any procedural defect in the decision of the Authority or error of law in the order of the Authority; or
- (d) dismiss the appeal and confirm the decision of the Authority.

(6) The Appeals Tribunal shall give all parties written notification of its decision.

(7) Subject to subsection (8), a decision of the Appeals Tribunal is final.

(8) An appeal shall lie to the High Court from a decision of the Appeals Tribunal on a point of law but not on any matter of fact.

48. (1) A member of the Appeals Tribunal shall not be liable in respect of any thing done or omitted to be done in good faith in the discharge of his or her functions, or of any words spoken or

Protection from liability
of members of Appeals
Tribunal.

written for the purposes of the hearing of an appeal under the Act, unless the thing was done or omitted to be done or the words were spoken or written in bad faith.

PART VIII MISCELLANEOUS

Revocation by order of court.

49. Where a licensee or the holder of a certificate of registration is convicted of praedial larceny, receiving stolen goods or any offence against this Act, the Court may, in addition to any other penalty, order the revocation of the licence or certificate of registration.

Regulations.

50. (1) The Minister may make Regulations generally for giving effect to the provisions of this Act and, without prejudice to the generality of the foregoing, may make Regulations -

- (a) providing for systems to ascertain the destination of fresh produce;
- (b) exempting any person, packing house, fresh produce, container or other thing from the application of the provisions of this Act or the Regulations;
- (c) respecting -
 - (i) mandatory inspection;
 - (ii) the publication of contents of registers,
 - (iii) disposal on seizure;
- (d) prescribing -
 - (i) the records to be kept by licensed exporters and owners of registered packing houses;
 - (ii) marks or labels to denote conformity with standards;
 - (iii) the forms prescribed under this Act; and
 - (iii) fees or charges required for the administration of the Act.

(2) The Minister may make Regulations prescribing penalties to be imposed on summary conviction for contravention of a regulation, but the penalty so prescribed shall not exceed a fine of five thousand dollars or a term of imprisonment of six months or both.

51. The Minister may by Order amend the Schedule. Amendment of Schedule.

52. The Fruit Trade Regulation Act, Chapter 82:03 is repealed. Repeal.

SCHEDULE

dasheen	plantain
tania	sweet potatoes
sweet peppers	hot peppers
pineapples	pumpkin
mangoes	tomatoes
cabbage	bananas
orange	grapefruit

Passed in the House of Assembly this 2nd day of March, 2009.

DEIRDRE D. JULES (MRS.)
(Acting) Clerk of the House of Assembly

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