

THE COCONUT INSURANCE ACT

REGULATIONS

(under section 3)

The Coconut Wind-Storm Insurance Regulations, 1949

L.N. 56/49
 50/52
 G.N. 1406/52
 L.N. 61/53
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 (d.d. 1.5.1989)
 1/92
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NOTICE

*(under regulation 2(1) of the
 Coconut Lethal Yellowing Insurance Regulations, 1966)*

The Coconut Insurance (Declaration of Resistant Tree) Notice, 1973

L.N. 470/73

THE COCONUT INSURANCE ACT

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(under section 3)

THE COCONUT WIND-STORM INSURANCE REGULATIONS, 1949

*(Made by the Governor in Executive Council on the 29th
day of July, 1949)**[1st July, 1949.]*

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PART I
Introductory

1. These Regulations may be cited as the Coconut Wind-Storm Insurance Regulations, 1949.

Short title.

2. In these Regulations all expressions shall have the meanings assigned in the Coconut Industry Control Act and the Coconut Industry Control Regulations, 1945 and in addition—

Interpretation.

“affected cultivation” means any coconut cultivation which is damaged by wind-storm;

“assessed trees” means the number of coconut trees upon any coconut cultivation immediately prior to any wind-storm;

“automatic coverage” means the amount obtained by multiplying the coverage constant by the delivered units;

“automatic indemnity rate” means the amount per tree arrived at in the case of any coconut cultivation by dividing the automatic coverage by the assessed bearing trees;

“bearing coconut tree” means a coconut tree which has flowered;

“coconut cultivation” means any parcel of land on which immediately prior to a wind-storm coconut trees are growing;

“contractual coverage” means the total amount of contractual insurance placed on any coconut cultivation pursuant to regulation 4;

“contractual indemnity rate” means—

- (a) the amount per bearing tree; and
- (b) the amount per non-bearing tree,

arrived at in the case of any coconut cultivation by dividing the contractual coverage for each category by the assessed bearing or non-bearing trees as the case may be;

“coverage constant” means the sum of \$65.00;

“delivered units” means the number of units shown in relation to any coconut cultivation as having been disposed of during the preceding calendar year according to the annual record prepared by the Board under regulation 17 of the Coconut Industry Control Regulations, 1945;

“insurance year” shall correspond with the calendar year;

“qualified person” means—

- (a) in relation to automatic benefit, a person who is qualified under regulation 3 to receive automatic benefit; and
- (b) in relation to contractual benefit, a person who is qualified under regulation 5 to receive contractual benefit;

“trees lost” means—

- (a) in relation to bearing coconut trees, trees rendered by wind-storm incapable of further bearing or becoming within six months after the wind-storm incapable of further bearing as a direct result of damage occasioned by wind-storm; and
- (b) in relation to non-bearing trees, trees rendered by wind-storm incapable of future bearing or becoming within six months after the wind-storm incapable of future bearing as a direct result of damage occasioned by wind-storm,

but does not include in relation to any wind-storm any tree which was treated as lost in relation to any previous wind-storm;

“wind-storm” means any hurricane, tornado, cyclone, whirlwind, gale or atmospheric disturbance whether similar to the foregoing or not.

PART II

Qualification for, determination of, and payment of benefit

3. Every coconut grower who in relation to any affected cultivation complies both with the general conditions for benefit and with the special condition for automatic benefit shall be qualified to receive automatic benefit in respect of damage occasioned to such cultivation in any insurance year by any wind-storm.

Qualification
for automatic
benefit.

4.—(1) Where a coconut grower satisfies the Board that in respect of any insurance year he has no automatic insurance on any particular coconut cultivation or that his automatic insurance on such coconut cultivation is insufficient to provide a reasonable cover against his possible loss by wind-storm, then he may in accordance with the provisions of this regulation effect contractual insurance in respect of such coconut cultivation against loss occasioned to the coconuts on such coconut cultivation consequent on the occurrence of any wind-storm during such insurance year.

Contractual
insurance.

(2) No coconut grower shall be entitled to receive in the event of loss any benefit in respect of contractual insurance—

- (a) in relation to bearing coconut trees, in excess of the benefit which he would receive if his contractual indemnity rate were \$550.00 less his automatic indemnity rate;
- (b) in relation to non-bearing trees, in excess of \$95.00 per tree.

(3) Every coconut grower who desires to effect contractual insurance shall before the 1st July in the insurance year in which he desires to effect insurance make application to the Board in such form as the Board shall require and with such particulars as the Board shall require and shall forward with such application the necessary premium for the contractual insurance required.

(4) The premium payable in respect of contractual insurance for a full insurance year or for any part thereof shall be—

- (a) in respect of bearing coconut trees, \$3.00 for every \$100.00 of insurance; and
- (b) in respect of non-bearing coconut trees, \$6.00 for every \$100.00 of insurance.

(5) No contractual insurance may be effected to cover any loss consequent upon a wind-storm which occurred prior to the receipt by the Board of the application and the necessary premium.

(6) No contractual insurance shall be deemed to be effected or to be in force until the dispatch by the Board of a confirmation of its acceptance of such insurance.

(7) Notwithstanding the provisions of paragraph (3) the Board may in any particular case and in its absolute discretion accept any contractual insurance although application therefor may have been made after 1st July.

Qualifica-
tion for con-
tractual
benefit.

5. Every coconut grower who in relation to any affected cultivation has effected contractual insurance under these Regulations and who complies with the general conditions for benefit shall be qualified to receive contractual benefit in respect of damage occasioned by wind-storm during the relevant insurance year to coconut trees, whether bearing or non-bearing, growing upon the coconut cultivation in respect of which he effected such insurance.

First
general con-
dition for
benefit.

6. The first general condition for the receipt of benefit by a coconut grower is that the affected cultivation has in the opinion of the Board suffered damage to the extent of not less than five per cent of bearing or non-bearing coconut trees.

Second
general con-
dition for
benefit.

7. The second general condition for the receipt of benefit by a coconut grower is that he makes application for benefit (within three months after the date of the wind-storm giving rise to such application) in such manner and in such form as the Board shall require and affords to the Board and to any person authorized by the Board such information and such opportunity of inspecting any books or records kept by him in relation to his coconut cultivation and of inspecting any damage to his coconut cultivation as may be required by the Board:

Provided, however, that the Board may at any time in its discretion in any particular case or cases waive the condition as to the time within which application for benefit shall be made.

Third
general con-
dition for
benefit.

8. The third general condition for the receipt of benefit by a coconut grower is that he shall at the time of the loss be a registered coconut grower in respect of the affected cultivation, provided, however, that this condition shall not apply where the affected cultivation is not a registrable coconut property or part of a registrable coconut property and provided further that the Board may in its absolute discretion waive this condition in any other case which appears to the Board to warrant exceptional treatment.

9. The special condition for the receipt of automatic benefit in respect of any affected cultivation is that such affected cultivation is or forms part of a coconut property shown by the record of quantities and units prepared by the Board under the Coconut Industry Control Regulations, 1945, as having disposed of coconuts grown upon such property through coconut dealers during the previous calendar year.

Special condition for automatic benefit.

10.—(1) Subject to the succeeding provisions of this regulation every qualified person shall receive in relation to any affected cultivation—

Amount of benefit.

(a) by way of automatic benefit a sum equal to the bearing trees lost multiplied by the automatic indemnity rate;

(b) by way of contractual benefit—

(i) a sum equal to the bearing trees lost multiplied by the contractual indemnity rate for bearing trees; and

(ii) a sum equal to the non-bearing trees lost multiplied by the contractual indemnity rate for non-bearing trees,

less in either case a deduction of 5 per cent of such sum.

(2) In any case of automatic benefit payable in respect of any wind-storm, unless the Board is satisfied that at the time of the final inspection made under paragraph (2) of regulation 13 the affected cultivation contains properly planted and spaced young coconut trees and plants (being trees and plants which have not yet flowered) aggregating in number at least one-half of the trees lost in the said wind-storm and in all previous wind-storms (if any) in the same insurance year, only two-thirds of the amount computed under paragraph (1) shall be payable, but the Board may in its absolute discretion pay the remaining one-third or any part or parts thereof at any time or times during the five years next ensuing the loss, upon being satisfied that steps have been taken to plant new trees in the affected cultivation with a view to making good the deficiency of young trees.

(3) Where in relation to any affected cultivation any benefit has been received or is receivable under these Regulations in respect of any wind-storm and a further claim or further claims is or are made in relation to the same cultivation in respect of any subsequent wind-storm or wind-storms occurring in the same insurance year as the first wind-storm the automatic indemnity rate and the contractual indemnity rate applicable to such cultivation in respect of such further claim or claims shall not exceed the automatic indemnity rate and the contractual indemnity rate applicable in respect of the first wind-storm.

(4) Where in relation to any affected cultivation any automatic benefit has been received or is receivable under these Regulations in respect of any original wind-storm and a further claim or further claims for automatic benefit is or are made in relation to the same cultivation in respect of any subsequent wind-storm or wind-storms occurring in the next succeeding insurance year then for the purpose of the calculation of the automatic coverage and the automatic indemnity rate applicable to such cultivation in respect of such further claim or claims—

- (i) the definition of “delivered units” shall be read and construed as if the words “the twelve months preceding the month in which the original wind-storm occurred” were substituted for the words “the preceding calendar year”; and
- (ii) the definition of “assessed trees” shall be read and construed as if the words “the original wind-storm” were substituted for the words “any wind-storm”.

For the purposes of this paragraph the expression “original wind-storm” means any wind-storm (being the first in its insurance year affecting the cultivation in question) which may occur in any insurance year which has been immediately preceded by two full consecutive insurance years during which the cultivation in question has not been qualified for automatic benefit.

(5) Where in relation to any affected cultivation any automatic benefit has been received or is receivable under these Regulations in respect of any wind-storm (hereinafter called “the prior wind-storm”) and a further claim or claims for automatic benefit is or are made in relation to the same cultivation in respect of any subsequent wind-storm or wind-storms occurring in the second insurance year after that in which the prior wind-storm occurred then for the purpose of the calculation of the automatic coverage and the automatic indemnity rate applicable to such cultivation in respect of such further claim or claims the coverage constant shall be taken to be the sum of \$97.50:

Provided, however, that the Board may by resolution increase or reduce such coverage constant in respect of any particular subsequent wind-storm or any particular insurance year to such figure as may be thought fit and provided further that the automatic indemnity rate in respect of each cultivation shall not in any case exceed the automatic indemnity rate which was established or would (if there had been a claim) have been established in respect of such cultivation under paragraph (4).

(6) When once the provisions of paragraph (5) have become applicable to any affected cultivation in respect of any wind-storm such provisions shall continue to be applicable to such cultivation in respect of every subsequent wind-storm until there have been two full consecutive insurance years during which such cultivation has not been qualified for automatic benefit.

(7) In no case shall the automatic indemnity rate applicable to any affected cultivation in respect of any wind-storm exceed the sum of \$550.00.

11.—(1) Subject to the provisions of this regulation and of regulation 18, every qualified person shall be paid the benefit to which he is entitled so soon as may be after the Board has finally under paragraph (2) of regulation 14 determined the amount of benefit payable to him; provided, however, that after the Board has under paragraph (1) of regulation 14 estimated the amount of benefit payable, the Board may in its discretion make advances on account thereof pending final determination under paragraph (2) of regulation 14.

Payment of
benefit.

(2) The Board may deduct from any benefit payable to any qualified person any sum owed by him to the Board.

PART III

Procedure for Assessing Damage

12. Every qualified person whose coconut cultivation is damaged by any wind-storm shall so soon as may be after the occurrence of such wind-storm make a return to the Board in the form required by the Board making application for benefit in respect of the loss occasioned to him by such wind-storm.

Return
claiming
benefit.

13.—(1) So soon as may be after the occurrence of any wind-storm in respect of which the Board receives any application for benefit under regulation 12 or considers that it is likely to receive such application, the Board shall, for the purpose of complying with regulation 14, cause a preliminary inspection to be made of the relevant affected cultivations.

Inspections
to be made.

(2) So soon as may be after the expiration of six months from the date of any wind-storm in respect of which the Board has caused any preliminary inspection to be made under paragraph (1) the

Board shall for the purpose of complying with regulation 14 cause a final inspection to be made of the relevant affected cultivations.

(3) So soon as may be after the completion of any preliminary inspection under paragraph (1) every inspector shall, in respect of each affected cultivation inspected, make a preliminary report to the Board as to the affected cultivation generally and the damage done and in particular as to the assessed trees and the trees lost.

(4) So soon as may be after the completion of any final inspection under paragraph (2) every inspector shall in respect of each affected cultivation inspected, make a final report to the Board as to the trees lost and (for the purposes of paragraph (2) of regulation 10), the number and condition of the young trees and plants.

Determina-
tion of
benefit.

14.—(1) So soon as may be after the receipt of any preliminary report under paragraph (3) of regulation 13 the Board shall consider such report and shall consider any application made under regulation 12 and shall to the best of its ability make a conservative estimate of the benefit likely to be payable and notify the claimant accordingly.

(2) So soon as may be after the receipt of any final report under paragraph (4) of regulation 13 the Board shall consider such report and shall reconsider the application and shall finally determine the amount of benefit payable and notify the claimant accordingly and such determination shall be final and binding subject only to the right of appeal by way of arbitration hereinafter contained.

Appeal.

15. Where any coconut grower is dissatisfied with the opinion or determination of the Board under regulation 6 or paragraph (2) of regulation 14 he may within thirty days of the notification to him of such determination give written notice to the Board that he appeals against the said determination and requires the same to be submitted to arbitration and thereupon the dispute shall be determined as between the coconut grower and the Board in accordance with the Arbitration Act and the award in respect thereof shall be final and binding.

PART IV

Financial Provisions

Establishment
of Coconut
Wind-Storm
Insurance
Fund.

16.—(1) For the purposes of these Regulations the Board shall establish a Coconut Wind-Storm Insurance Fund (hereinafter called "the Fund") which shall be kept separate from any other moneys belonging to or under the control of the Board.

(2) The Board shall pay into the Fund—

- (a) (i) \$4.00 per ton of copra or cohune nut kernels; and
(ii) \$6.00 per ton of coconut oil or cohune nut oil,
sold by the Board or imported into the Island by the Board
either on its own behalf or on behalf of any other person;
- (b) 12 cents per unit of coconuts exported by the Board or sold by
the Board to licensed coconut exporters for export;
- (c) 12 cents per unit of coconuts sold by the Board for planting or
for the manufacture of desiccated coconut or other coconut
product;
- (d) any premiums paid to the Board for contractual insurance;
- (e) any sums received by the Board by way of reinsurance;
- (f) any sums borrowed by the Board pursuant to subsection (1)
of section 4 of the Act;
- (g) any sums received by sale of assets or investments forming
part of the Fund or by way of interest revenue or profit
thereon.

17. Any moneys forming part of the Fund shall from time to time— Investments.

- (a) be invested in such manner as the Board may decide in the
public securities of any Commonwealth country or of Jamaica
or in any securities which are lawful for the investment of
trustee funds;
- (b) be placed on deposit with the Accountant-General or in
such bank or banks as the Board may from time to time
direct;
- (c) be invested in the acquisition of units under a registered unit
trust scheme; or
- (d) be invested in securities quoted on the Jamaica Stock Market.

18. All obligations, costs and expenses incurred by the Board under these Regulations shall be defrayed out of the Fund but no other moneys, property or assets of the Board shall be liable for any such obligations, costs or expenses and the Board shall not be liable for any such obligations, costs or expenses except to the extent of and out of the Fund. Application of Fund.

19. The Board may effect such reinsurance in respect of the whole or any part of the potential liability incurred by the Fund for the payment of benefit under these Regulations at such rates and upon such conditions as the Board may think fit. Reinsurance.