

CHAPTER 328 - Canning Crops Act

Commencement Date: 4/9/1958

An Act of Parliament relating to the advancement and control of the canning industry concerned in the canning of certain crops, and to provide for matters incidental thereto or connected therewith

Part I – PRELIMINARY

Short title

1. This Act may be cited as the Canning Crops Act.

Interpretation

2. In this Act, except where the context otherwise requires—

"Board" means the Canning Crops Board established by section 4;

"can" means pack in an airtight container by any means involving the application of heat, whether before, during or after the placing of the contents in the container;

"canning factory" means any structure or building used wholly or in part for the canning of any scheduled crop for the purpose of sale;

"canning factories licence" means a valid licence granted under section 20;

"Director of Agriculture" includes any person appointed by him to represent him for the purposes of this Act;

"grower's licence" means a valid licence issued under section 10;

"licensed scheduled crop" means the scheduled crop or, where a variety of any scheduled crop is specified, that variety of such scheduled crop specified in the grower's licence issued to the proprietor, lessee or occupier of the land upon which that crop is or was grown;

"scheduled crop" means any fruit or vegetable for the time being specified in the Second Schedule, and the juice thereof or jam made, or oil extracted, therefrom;

"scheduled crops canning industry" means the industry connected with the canning, for the purpose of sale, of any scheduled crop.

Scheduled crops

L.N.236/1964

- 3.(I) On the recommendation of the Board, the Minister, in consultation with the Minister for the time being responsible for commerce and industry, may, from time to time by order published in the Gazette, amend the Second Schedule by adding thereto or deleting therefrom any fruit or vegetable.

- (2) Every order made under this section shall have force of law upon publication thereof, but shall be laid before the National Assembly on the first day of the session thereof next after the taking of such

order, and the Assembly may before the conclusion of such session resolve that such order shall cease to have effect, whereupon such order shall be deemed to have been revoked.

(3) For the purposes of subsection (2), "session" has the meaning for the time being assigned to it by the Standing Orders of the National Assembly.

Part II - THE CANNING CROPS BOARD AND CONSULTATIVE COMMITTEES

Establishment and constitution of the Board

4.(1) There is hereby established a Board to be known as the Canning Crops Board.

(2) The constitution of the Board and the regulations and conduct of affairs and business of the Board shall be as provided for in the First Schedule.

Incorporation and common seal of the Board

5. The Board shall be a body corporate having perpetual succession and a common seal, and may in its corporate name sue and be sued and may, for and in connexion with the purposes of this Act, purchase, hold, manage and dispose of land and other property, and enter into such contracts as it may consider to be necessary or expedient.

Appointment and functions of consultative committees

6.(1) The Minister shall, after consultations with the Board, by notice in the Gazette, appoint, for each scheduled crop, a consultative committee consisting of such one or more persons who grow that scheduled crop and such one or more persons who can that scheduled crop, as he thinks fit.

(2) The functions of the consultative committee shall be to advise the Board on all matters concerning the scheduled crop for which such committee is appointed.

(3) The Board may from time to time make standing orders providing for the regulation and conduct of affairs and business of any consultative committee.

Functions and powers of the Board 45 of 1963,s.2.

7.(1) It shall be the duty of the Board in the exercise of its powers and in the performance of its functions to act in such manner as appears to it best calculated to promote the scheduled crops canning industry.

(1A) In the exercise of its powers and in the performance of its functions under this Act the Board shall act in accordance with any general or special directions that may be given to it by the Minister.

(2) Subject to the provisions of this Act, the functions and powers of the Board shall include the carrying out of all activities and the doing of all such things as are necessary, advantageous, proper or for the benefit of growers of scheduled crops for sale for canning purposes and for the benefit of the scheduled crops canning industry and, in particular, shall include—

(a) the licensing of proprietors, lessees or occupiers of land upon which scheduled crops are grown or cultivated for canning purposes;

(b)the licensing and inspection of canning factories;

(c)the promotion and undertaking of technical and scientific research or investigation into all matters relating to any scheduled crop or the scheduled crops canning industry; and

(d)subject to the provisions of subsection (3), the fixing, from time to time, of the price to be paid for any scheduled crop or variety thereof or any grade of any scheduled crop or variety thereof sold for canning purposes.

(3) No price shall be fixed by the Board under paragraph (d) of subsection (2) for any scheduled crop or variety thereof or any grade of any scheduled crop or variety thereof except—

(a)after consultation with the consultative committee appointed for that crop, and

(b)with the approval of the Minister, which approval shall be notified in the Gazette; and every price fixed as aforesaid shall take effect as from such date as may be specified in the notice.

(4) In the exercise of its powers and in the performance of its functions the Board may refer any matter concerning any scheduled crop to the consultative committee appointed for such crop, for the consideration and recommendation of such committee thereon; and the Board shall receive and consider any recommendation advanced by any consultative committee appointed under this Act, but shall not be bound by such recommendation.

Part III - CONTROL OF SCHEDULED CROPS

Control of growing and cultivation of scheduled crops

8.(1) No person shall grow or cultivate any scheduled crop for sale for canning purposes unless the proprietor, lessee or occupier of the land upon which that scheduled crop is grown or cultivated is the holder of a grower's licence relating to that scheduled crop.

(2) Where a scheduled crop is grown or cultivated for sale for canning purposes in contravention of the provisions of subsection (1), each of the proprietors, lessees and occupiers of the land upon which the scheduled crop is grown, and where the person who grows or cultivates such crop is not a proprietor, lessee or occupier, that person also, shall be guilty of an offence:

Provided that it shall be a defence for a person charged only by reason of his being a proprietor, lessee or occupier of the land to show that the offence was committed without his knowledge.

Application for grower's licence

9.Any proprietor, lessee or occupier of land desiring to obtain a grower's licence shall apply therefor on the prescribed form to the Board.

Licensing of scheduled crops growers

10.(1) Upon receipt of an application for a grower's licence the Board may grant or refuse to grant such application, or grant such application in respect of one or more varieties of the scheduled crop specified in the application, or grant such application subject to such other alterations, as the Board may think fit.

(2) Where the Board grants an application, with or without alteration, it shall refer the matter to the Director of Agriculture who may-

(a) approve the decision of the Board in respect of such application, or

(b) refuse to approve such decision, or

(c) refer the matter back to the Board for reconsideration of their decision.

(3) Where in the first instance or on reconsideration the Board grants an application, with or without alteration, and the Director of Agriculture approves the decision of the Board thereon, the Board shall issue to the applicant a grower's licence upon receipt of such fee as may be prescribed.

Form of growers licence
Cap.486

11. Every growers licence shall be signed both by the Board or an officer thereof authorized by the Board and by the Director of Agriculture and shall be in the prescribed form.

(2) Every grower's licence shall be subject to such conditions as may be prescribed and shall specify—

(a) the location of the land to which it relates;

(b) the proprietor, lessee or occupier of the land to which it relates;

(c) the scheduled crop or the variety or varieties of the scheduled crop to which it relates;

(d) the quantity of such scheduled crop or of the variety or varieties thereof that may be sold for canning purposes thereunder;

(e) the canning factory or factories authorized to purchase such licensed scheduled crop; and

(f) such other particulars as the Board may require.

(3) Where the proprietor, lessee or occupier of land is a partnership, or is a company registered under the Companies Act, the grower's licence shall be issued in the name of the partnership or the company, as the case may be.

(4) A grower's licence may be issued in the name of an association or co-operative society, in which case those members of such association or co-operative society who are proprietors, lessees or occupiers of land and who are specified in such grower's licence shall be deemed to be licensed to grow and cultivate the scheduled crop or the variety or varieties of the scheduled crop specified in that licence; and every such licence shall contain details of the extent to which the scheduled crop, or any variety or varieties of the scheduled crop specified therein, shall be permitted to be grown by each member specified in such licence.

(5) Every grower's licence shall, unless sooner cancelled under this Act, be valid for such period as may be prescribed; but may, from time to time within that period, be modified by the Board in respect of any of the matters mentioned in subsection (2).

(6) A copy of every grower's licence shall be sent by the Board to the operator of every canning factory specified in the licence.

Transfer of growers licence

12.(1) No grower's licence shall be transferred except with the consent in writing of the Board, but such consent shall not be unreasonably withheld.

(2) Subject to the consent required by subsection (1), the Board shall, upon application by the holder of a grower's licence and on payment of such fee as may be prescribed, by written endorsement on such licence, transfer the licence to any other person.

(3) Every such transfer shall be notified by the Board to the operator of every canning factory specified in the grower's licence so transferred.

Cancellation of growers licence

13.(1) The Board may, upon conviction of the holder of a grower's licence for an offence under this Act, cancel the licence, but without prejudice to the issue of a new grower's licence to the same person.

(2) The cancellation of a grower's licence shall be notified by the Board to the operator of every canning factory specified in the licence so cancelled.

Appeals

14.(1) Any decision of the Board and of the Director of Agriculture in respect of an application for a grower's licence, or in respect of modification of a grower's licence, shall, within twenty-one days thereof, be notified by the Board to the applicant or to the licensee, as the case may be, who may, within thirty days of notification, appeal to the Minister against such decision.

(2) The Minister's decision on any such appeal shall forthwith be notified to the Board, to the Director of Agriculture and to the person appealing; and the Board and Director of Agriculture shall take such steps as are necessary to give effect to such decision.

(3) The Minister's decision on any appeal under this section shall be final.

(4) Any person appealing to the Minister under this section shall forward two copies of such appeal to the Board.

Inspection of land and buildings

15.(1) It shall be lawful for any officer of the Department of Agriculture, or, where no such officer is available for the purpose, any person authorized in writing by the Board so to do on production of such written authority, to enter and inspect at all reasonable times any land specified in any grower's licence or on which he has reason to believe any scheduled crop has been, or is, or is about to be, grown or cultivated for sale for canning purposes, or any building in which he has reason to believe any scheduled crop has been, or is, stored prior to being sold for canning purposes.

(2) The proprietor, lessee or occupier of such land or building shall give all reasonable facilities and information to such officer or authorized person.

(3) Any person who obstructs or hinders any person in the exercise of his powers under this section shall be guilty of an offence.

Control of selling of Scheduled crops

16. (1) No person shall, without the prior consent in writing of the Board—

(a) sell, for canning purposes, to the operator of any canning factory any unlicensed scheduled crop;

(b) sell, for canning purposes, any licensed scheduled crop to the operator of a canning factory not specified in the grower's licence relating to that crop; or

(c) sell, for canning purposes, to the operator of any canning factory any licensed scheduled crop which was not grown on the land specified in the grower's licence relating to that crop.

(2) Where a scheduled crop is sold for canning purposes in contravention of any of the provisions of subsection (1), each of the proprietors, lessees and occupiers of the land upon which that scheduled crop was grown, and, where the person who sells such crop is not a proprietor, lessee or occupier, that person also, shall be guilty of an offence:

Provided that—

(i) it shall be a defence to a person charged only by reason of his being a proprietor, lessee or occupier of the land to show that the offence was committed without his knowledge or, where the offence charged is in respect of the contravention of paragraph (a) or paragraph (b) of subsection (1), that the scheduled crop was not sold on his behalf to such operator;

(ii) where the offence charged is in respect of the contravention of paragraph (c) of subsection (1) and the person who sells such crop is not the grower thereof, nor a proprietor, lessee or occupier of the land upon which it was grown, it shall be a defence for him to show that the grower thereof or a proprietor, lessee or occupier of the land made and signed a declaration on such form as may be prescribed that such crop was grown on the land specified in the grower's licence relating thereto and in accordance with the conditions of such licence.

(3) Any person who knowingly signs a declaration, made under the provisions of the proviso to subsection (2), which is untrue in any material particular shall be guilty of an offence against this Act.

Control of purchasing of scheduled crops

17. It shall be an offence for the operator of any canning factory, without the prior consent in writing of the Board—

(a) to purchase for canning or can any unlicensed scheduled crop for the purpose of sale;

(b) to purchase for canning or can any licensed scheduled crop for the purpose of sale in excess of the quantity specified in the grower's licence relating thereto;

(c) not being the canning factory specified in the grower's licence relating to a scheduled crop, to purchase such scheduled crop for canning, or to can such crop, for the purpose of sale; or

(d) being the canning factory specified in a grower's licence relating to a licensed scheduled crop which fulfils such requirements as to quality as may be prescribed, to refuse to purchase according to the grade thereof, up to the maximum quantity specified in that grower's licence, such licensed scheduled crop.

Price of scheduled crops or grades

18.(1) where the Board has, in accordance with the provisions of section 7, fixed a price to be paid for any scheduled crop or variety thereof or grade of any scheduled crop or variety thereof, no person shall sell to the operator of any canning factory for canning purposes, and the operator of a canning factory shall not purchase for canning, any such crop or variety thereof or any such grade of crop or variety thereof except at such price.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Part IV - CONTROL OF CANNING FACTORIES

Canning factories to be licenced

19.(1) No person shall operate a canning factory unless a canning factories licence, issued by the Board under this Act is obtained in respect of that factory.

(2) Any person who operates a canning factory in contravention of subsection (1) shall be guilty of an offence.

Canning factories licence

20.(1) An application for a canning factories licence shall be made in writing to the Board in the prescribed form, factories specifying the location of the canning factory and the scheduled crop or crops which, it is intended, will be canned thereat for the purpose of sale and such other particulars as the Board may require.

(2) Upon receipt of an application the Board may, in its discretion, refuse to grant a canning factories licence or, on payment of such fee as may be prescribed, grant a canning factories licence in respect of all or any of the scheduled crops specified in the application.

(3) Any person aggrieved by the decision of the Board under this section may, within thirty days of the notification to him of that decision, appeal to the Minister, whose decision, after consultation with the Minister for the time being responsible for commerce and industry, shall be final.

(4) The Minister's decision on any such appeal shall forthwith be notified to the Board and to the person appealing; and the Board shall take such steps as are necessary to give effect to such decision.

(5) Any person appealing to the Minister under this section shall forward two copies of such appeal to the Board.

(6) Any person who operates a canning factory at which any scheduled crop not specified in the canning factories licence issued in respect of that factory is canned for the purpose of sale shall be guilty of an offence.

Form of canning factory licence

21.(1) Every canning factories licence shall be in such form and subject to such conditions as may be prescribed and shall specify-

(a) the canning factory to which it relates; and

(b) the scheduled crop or crops which may be canned thereat for the purpose of sale.

(2) Every canning factories licence shall, unless sooner cancelled under this Act, be valid for such period as may be prescribed.

Cancellation of canning factories licences

22. The Board may, upon conviction of the owner of a licensed canning factory for any offence under this Act, cancel the canning factories licence relating to that factory but without prejudice to the issue of a new canning factories licence in respect of the same factory.

Change of ownership of licensed canning factories

23. Every change in ownership of a licensed canning factory shall be notified to the Board within thirty days thereafter by or on behalf of the previous owner thereof, who, in the event of non-compliance with the provisions of this section, shall be guilty of an offence.

Inspection of canning factories

24. (1) It shall be lawful for any person authorized in writing by the Board so to do either generally or in any specific case, on production of such written authority, to enter and inspect at all reasonable times any licensed canning factory or any structure or building in respect of which such person has reason to believe that any scheduled crop has or is being canned thereat for the purpose of sale; and such person may take such samples or raw or canned produce as he deems necessary, and may seize and detain any plant, machinery or implement which there are reasonable grounds to suppose has been or is being used for the purpose of canning any scheduled crop in contravention of any of the provisions of this Act or any rules made thereunder.

(2) The operator of such canning factory shall give all reasonable facilities and information to such authorized person.

(3) Any person who obstructs or hinders any person in the exercise of his powers under this section shall be guilty of an offence.

Part V – FINANCES

Imposition of cess on scheduled crops sold for canning

25.(1) The Board may from time to time, with the approval of the Minister, by notice in the Gazette, impose a cess on any scheduled crop sold for the purposes of canning.

(2) Any cess imposed under this section shall be payable to the Board or its agents in that behalf by the person who sells the scheduled crop to the operator of the canning factory at which it is or will be canned, and shall be paid in such manner and within such time as the Board may direct, and shall be a civil debt recoverable summarily.

Imposition of cess on canned scheduled crops

26.(1) The Board may from time to time, with the approval of the Minister, by notice in the Gazette, impose a cess on any scheduled crop canned for the purpose of sale.

(2) Any cess imposed under this section shall be payable to the Board by the person who operates the canning factory at which the scheduled crop was canned and shall be paid on or before such date or

dates in each year as may be specified in the notice imposing the cess, and shall be a civil debt recoverable summarily.

The Scheduled Crops Fund

27.(1) The Board shall establish a fund, to be known as the Scheduled Crops Fund, into which it shall pay—

(a) all fees paid for, and for the transfer of, grower's licences and for canning factories licences;

(b) such sums as the Board may from time to time receive by way of cess imposed under sections 25 and 26; and

(c) such other sums as the Board may from time to time receive under this Act.

(2) The Board may open a banking account or banking accounts with any bank approved by the Minister.

Use of Fund

28. All moneys comprised in the Scheduled Crops Fund may in the discretion of the Board, be utilized for or in connexion with the exercise of its powers and the performance and discharge of its functions and duties under this Act and, in particular—

(a) to subsidize the holders of grower's licences and persons operating licensed canning factories if in the opinion of the Board circumstances require such subsidy;

(b) for the payment of such remuneration and travelling and other expenses to members, officers, agents and employees of the Board as are lawfully payable under this Act;

(c) for the payment of travelling and other expenses of public officers incurred in the carrying out of any extraordinary duties at the express request of the Board;

(d) for the payment of the expenses of and incidental to the audit of the Board's accounts.

Power to borrow money

29. The Board, with the approval of the Minister, may from time to time borrow, whether by way of overdraft from a bank or otherwise, such sums of money for or in connexion with the exercise of its functions, powers and duties under this Act and for the purposes of this Act as may be necessary.

Power to invest

30. The Board may from time to time invest sums standing to the credit of the Board and which are not immediately required for any of the purposes of this Act in securities or any form of property in which trustees are authorized by law to invest or in such other securities as may be approved by the Treasury, and may from time to time sell or vary all or any of such securities or property.

Books of accounts

31. The Board shall cause to be kept proper books of account and other books in relation thereto and to all its undertakings, funds, activities and property, and shall prepare such other accounts as the

Minister may require and, in addition, yearly balance sheets made up to the end of its financial year, showing in detail the assets and liabilities of the Board.

2. (1) The Minister shall appoint one or more persons, being qualified accountants (herein referred to as the auditors), who shall annually examine, audit and report upon the accounts of the Board.

(2) The Board shall produce and lay before the auditors all books and accounts of the Board, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditors shall be entitled to require from all members, officers, agents and employees of the Board such information and explanation as may be necessary for the performance of their duties as auditors.

(3) The expenses of and incidental to the audit shall be paid by the Board.

(4) The Board shall, within a period of seven months after the end of its financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations during such year, and the auditor's report, together with the yearly balance sheets and such other statements of account as the Minister shall require; and the Board shall, if the Minister so requires, publish them in such manner as the Minister may specify.

Audit of accounts

32.(1) The Minister shall appoint one or more persons, being qualified accountants (herein referred to as the auditors), who shall annually examine, audit and report upon the accounts of the Board.

(2) The Board shall produce and lay before the auditors all books and accounts of the Board, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditors shall be entitled to require from, all members, officers, agents and employees of the Board such information and explanation as may be necessary for the performance of their duties as auditors.

(3) The expenses of and incidental to the audit shall be paid by the Board.

(4) The Board shall, within a period of seven months after the end of its financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations during such year, and the auditor's report, together with the yearly balance sheets and such other statements of account as the Minister shall require; and the Board shall, if the Minister so requires, publish them in such manner as the Minister may specify.

Part VI – GENERAL

Returns

33.(1) The Board may, by notice in writing, require the holder of, a grower's licence or any person who operates a factory in respect of which a canning factories licence has been granted to render, within a time specified in such notice, to the Board, a return in the prescribed form giving such details as may be prescribed.

(2) Any person who, having been required pursuant to subsection (1) to render a return to the Board, fails to do within the time specified in the notice requiring such return or who knowingly gives false information on any such return shall be guilty of an offence.

Rules

34. The Board may, with the approval of the Minister, make rules generally for the better carrying out of the purposes and provisions of this Act and, in particular, may make rules for any of the following purposes—

(a) prescribing the standard grades for, and the method of and procedure for the grading of, and the conditions to be fulfilled in respect of the grading of, any licensed scheduled crop intended to be canned for the purpose of sale or any canned scheduled crop intended for sale;

(b) providing for the inspection, weighing and measuring of any licensed scheduled crop;

(c) prescribing the services which the Board may render to growers or canners of licensed scheduled crops and the charges to be made therefor;

(d) regulating the manner of delivery of any scheduled crop or variety of any scheduled crop to the canning factory;

(e) regulating and controlling the processing and canning, for sale, of any scheduled crop or variety of any scheduled crop;

(f) providing for the cancellation by the Board of grower's licences or canning factories licences for failure to comply with any of the provisions of any rules made under this Act or any condition of such licences, without prejudice, however, to the issue of a new licence:

Provided that any such rules shall contain provision for appeal to the Minister within such time as may be specified against any such cancellation;

(g) prescribing the procedure for appeals made to the Minister under this Act or any rules made thereunder;

(h) prescribing anything which may be prescribed under this Act;

(i) prescribing penalties which may be imposed by the court for contravention of any rule made under this section, but no such penalties shall exceed the penalties provided by section 35.

Penalties

35. Any person who is guilty of an offence under this Act shall be liable to a fine not exceeding one thousand shillings or, in default of payment thereof, to imprisonment for a term not exceeding one month, and the court which convicts any such person may, in addition, order that any plant, machinery or implement, seized and detained under section 24, shall be forfeited.