

# **FEDERAL AGRICULTURAL MARKETING AUTHORITY (AMENDMENT) ACT 1990**

## **ACT A759**

### **PREAMBLE**

An Act to amend the Federal Agricultural Marketing Authority Act 1965.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

#### 1. Short title and commencement.

This Act may be cited as the Federal Agricultural Marketing Authority (Amendment) Act 1990.

(2) This Act shall come into force on such date as the Minister may, by notification in the Gazette, appoint.

#### 2. New sections 4, 5 and 6.

The Federal Agricultural Marketing Authority Act 1965 [Act 141], which in this Act is referred to as "the principal Act", is amended by inserting, immediately after section 3A, the following new sections 4, 5 and 6:

#### 4. Director General of the Authority.

(1) The terms and conditions of appointment of the Director General under section 2 (3) shall be determined by the Minister and shall be set out in the instrument of appointment.

(2) The Director General shall be responsible for the day to day administration and management of the affairs of the Authority and shall perform such duties and exercise such powers as may be entrusted or delegated by the Authority or the Chairman.

(3) Without prejudice to the generality of subsection (2), the Director General shall be responsible for the preparation of programmes, schemes or projects for the consideration of the Authority, the issue of policy guidance or elucidation of the decisions of the Authority and the supervision and control of the implementation of such decisions.

#### 5. Appointment of officers and servants of the Authority.

(1) The Authority may appoint such officers and servants as may be necessary for carrying out the purposes of this Act.

(2) All members, officers or servants of the Authority, while discharging their duties as such members, officers or servants, shall be deemed to be public servants within the meaning of the Penal Code.

#### 6. Discipline of officers and servants.

(1) There shall be a Disciplinary Committee of the Authority which shall consist of two members to be elected by and from the members of the Authority, one of whom shall be elected chairman, and the Director General appointed under section 2 (3).

(2) The disciplinary authority in respect of every officer and servant of the Authority other than the Director General shall be the Disciplinary Committee of the Authority established under subsection (1).

(3) The Disciplinary Committee in respect of the Director General shall consist of the Secretary General of the Ministry of Agriculture as chairman and two members to be elected by and from the members of the Authority.

(4) The Director General shall not be a member of the Disciplinary Committee in any proceedings before it in which he is the complainant; his place shall be taken by a member to be elected by and from the members of the Authority.

(5) In the exercise of its disciplinary functions, the Disciplinary Committee shall have the power to impose such disciplinary punishment as may be provided for under any regulations that may be made under section 12A.

(6) The Disciplinary Committee may, subject to subsection (7), delegate any of its disciplinary functions, powers or duties to any committee of officers or servants of the Authority, in respect of any particular officer or servant of the Authority or in respect of any class or category of officers or servants of the Authority, and the committee delegated with such functions, powers or duties shall carry out, exercise or discharge them under the direction and control of the Disciplinary Committee which shall have the power to review, rescind or vary any decision or finding of such committee.

(7) No delegation shall be made under subsection (6) so as to enable an officer or servant of the Authority to be a member of a committee which may exercise any disciplinary authority over an officer or servant who is superior to him in rank.

(8) Any officer or servant of the Authority who is dissatisfied with the decision of the Disciplinary Committee or of any committee delegated with functions, powers or duties under subsection (6) may, within fourteen days, appeal in writing against such decision to the Authority which may thereupon affirm, reverse or give such directions on the matter as it deems fit and proper.

(9) The decision of the Authority upon such appeal shall be final."

### 3. New sections 11A.

The principal Act is amended by inserting, immediately after section 11, the following new section 11A:

#### 11A. Surcharge.

(1) If it appears to the Authority that any person who is or was in the employment of the Authority-

(a) has failed to collect any monies owing to the Authority for the collection of which he is responsible;

(b) is or was responsible for any payment from the Fund of monies which ought not to have been made or for any payment of monies which is not duly vouched;

(c) is or was responsible, directly or indirectly, for any deficiency in, or for the destruction of, any monies, stamps, securities, stores or other property of the Authority;

(d) being or having been an accounting officer, fails or has failed to keep proper accounts or records;

(e) has failed to make any payment, or is or was responsible for any delay in the payment, of monies from the Fund to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Authority, the Authority shall serve on him a written notice calling on him to show cause why he should not be surcharged, and if a satisfactory explanation is not, within fourteen days from the date of service of the notice as aforesaid, furnished to the Authority with regard to the failure to collect, payment which ought not to have been made, payment not duly vouched, deficiency or destruction, or failure to keep proper accounts or records, or failure to make payment, or delay in making payment, the Authority may surcharge against the said person a sum not exceeding the amount of any such amount not collected, such payment, deficiency, or loss or the value of the property destroyed, as the case may be; and with regard to the failure to keep proper accounts or records, or the failure to make payment, or the delay in making payment, the Authority may surcharge against the said person such sum as the Authority may think fit.

(2) The Chairman shall cause the Director General to be notified of any surcharge made under subsection (1) and the Director General shall thereupon notify the person surcharged.

(3) The Authority may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and the Chairman shall at once cause the Director General to be notified of such withdrawal.

(4) The amount of any surcharge made under subsection (1) and not withdrawn under subsection (3) shall be a debt due to the Authority from the person against whom the surcharge is made and may be sued for and recovered in any court at the suit of the Authority and may also be recovered by deduction-

(a) from the salary of the person surcharged if the Authority so directs; or

(b) from the pension of the person surcharged if the Authority so directs,

by equal monthly instalments not exceeding one-fourth of the total monthly salary or pension, as the case may be, of the person."

#### 4. Amendment of sections 12.

The principal Act is amended by substituting section 12 with the following:

#### 12. Power to make regulations.

The Authority may, with the approval of the Minister, and in respect of (a) and (b) subject to the concurrence of the Minister of Finance, make regulations for all or any of the following matters:

- (a) the determination of salary scales and terms and conditions of employment of the officers and servants of the Authority, including the provision of loans to such officers and servants;
- (b) the establishment and management of a contributory provident fund for the officers and servants of the Authority or for payment of pensions, allowances or gratuities to the said officers and servants on retirement or otherwise ceasing to hold office; and
- (c) any other matter required by this Act to be prescribed and for the better carrying out of this Act."

5. New sections.

The principal Act is amended by inserting, immediately after section 12, the following new section 12A:

12A. Power to make disciplinary regulations.

- (1) The Authority may, with the approval of . the Minister, make such disciplinary regulations as it deems necessary or expedient to provide for the discipline of the officers and servants of the Authority.
- (2) The disciplinary regulations made by the Authority under this section may include provisions for the interdiction with reduction in salary or in other remuneration, or provisions for the suspension without salary or other remuneration, of an officer or servant of the Authority, during the pendency of disciplinary proceedings.
- (3) The disciplinary regulations made under this section shall create such disciplinary offences and provide for such disciplinary punishments as the Authority may deem appropriate, and the punishments so provided may extend to dismissal or reduction in rank.
- (4) The disciplinary regulations made under this section shall, in prescribing the procedure for disciplinary proceedings, provide for an opportunity for representations to be made by the person against whom disciplinary proceedings are taken before a decision is arrived at by the disciplinary authority on the disciplinary charge laid against such person. 55 .

6. Amendment of sections 18, 19, 20, 21, 21A, 22, 23, 25, 26, 27, 28 and 29.

The principal Act is amended by inserting, immediately after the word "Act" wherever it appears in sections 18, 19, 20, 21, 21A, 22, 23, 25, 26., 27, 28 and 29, the words "or any regulations made thereunder".

**7. Amendment of sections 24.**

Section 24 of the principal Act is amended by inserting, immediately after the words "this Act" in line 3, the words "or any regulations made thereunder".

8. Amendment of First Schedule.

The principal Act is amended by substituting the First Schedule with the following:

FIRST SCHEDULE

(Section 2 (2))

1. (1) A member of the Authority shall be deemed to have vacated his office if he fails to attend three consecutive meetings of the Authority without the permission in writing of the Minister.

(2) There shall be paid to members of the Authority, or to such of those members as the Minister may determine, such salaries, remuneration or allowances as he may determine.

(3) Any minutes made of any meeting of the Authority shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every such meeting shall be deemed to have been duly convened and held and all members present at such meeting shall be deemed to have been duly qualified to act.

2. (1) The quorum for meetings of the Authority shall be seven.

(2) If on any question to be determined by the Authority there is an equality of votes, the Chairman or other member acting as Chairman shall have a casting vote.

(3) Subject to subparagraphs (1) and (2), the Authority shall determine its own procedure.

3. (1) The Authority may appoint committees for any purpose arising out of or connected with any of its powers, duties and functions under this Act; any committee so appointed shall include not less than one member of the Authority, and there may be appointed to such committee such other persons as the Authority may think fit.

(2) Any committee appointed under subparagraph (1) may appoint one or more sub-committees; any sub-committee so appointed shall include not less than one member of the committee appointing it, and there may be appointed to such sub-committee such other persons as the committee appointing it may think fit.

(3) Any committee or sub-committee so appointed shall conform to any instructions from time to time given to it by the Authority, and the Authority may at any time discontinue or alter the constitution of any committee or sub-committee so appointed.

(4) There may be paid to members of any committee or sub-committee such remuneration or allowances as the Authority may from time to time determine with the approval of the Minister.

(5) The Authority, a committee or a sub-committee may, respectively, invite any person who, in its opinion, is possessed of special knowledge of advantage to it, to attend any meeting of the Authority, committee or sub-committee and the person so invited shall not be entitled to vote at any such meeting.

(6) Any minutes of any meeting of any committee or subcommittee shall, if duly signed, be receivable in evidence in all legal proceedings without further proof and every such meeting shall be deemed to have been duly convened and held and all members of the committee or sub-committee present at such meeting shall be deemed to have been duly qualified to act.

4. (1) The Authority shall have a common seal, which shall bear such device as the Authority shall approve and such seal may from time to time be broken, changed, altered or made anew, as the Authority may think fit.

(2) The common seal shall be authenticated by either the Chairman or such other person as may be authorized by the Authority or by any officer authorized by either of them in writing; and all deeds, documents and other instruments purporting to be sealed with the said seal, authenticated as aforesaid, shall until the contrary is proved be deemed to have been validly executed:

Provided that any document or instrument which if executed by a person not being a body corporate would not be required under seal may, in like manner, be executed by the Authority and any such document or instrument may be executed on behalf of the Authority by any officer or servant of the Authority generally or specially authorized by the Authority in that behalf."