

# MAURITIUS AGRICULTURAL MARKETING ACT

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## PRELIMINARY

### 1 Short title

This Act may be cited as the Mauritius Agricultural Marketing Act.

### 2 Interpretation

In this Act—

“Board” means the Agricultural Marketing Board established under section 3;

“buying agent” means any person authorised by the Board to acquire any controlled product by purchase on behalf of the Board;

“controlled product” means any product of Mauritius and any imported product, declared by the Minister under section 13 to be a controlled product;

“cooperative society” means any cooperative society which is registered under the Cooperative Societies Act;

“consumer” means any person who buys any controlled product for any purpose other than for manufacture or sale;

“dealer” means any person who—

- (a) acquires any controlled product for the purpose of manufacture or sale; or
- (b) imports into Mauritius any controlled product for the purpose of manufacture or sale;

“financial year” has the same meaning as in the Statutory Bodies (Accounts and Audit) Act;

“miller” means any person who mills or processes any controlled product for any purpose other than for consumption by himself, his household, his servants or his livestock;

“prescribed area” means any area prescribed by the Minister under section 13(1);

“producer” means—

(a) any person who, in the case of a crop, rears or, in the case of a fishery, gathers, any controlled product;

- (b) in respect of a controlled product surrendered to the Board, which has been grown, reared or gathered by a member of a cooperative society, a cooperative agricultural society or company registered under any enactment who is under an obligation to deliver the controlled product to the cooperative society, agricultural society or company, from the time of surrender to the Board, the cooperative society, agricultural society or company;

“product” means any produce or marine produce grown or gathered in the course of agriculture or fishery, including any livestock or poultry reared by producers and all meat or flesh and all other products derived from the livestock, poultry and marine produce;

“receiving depot” means a receiving depot appointed by the Board under section 17(2);

“sell” includes—

- (a) sell by auction;
- (b) offer or attempt to sell;
- (c) expose, display or advertise for sale;
- (d) sell or let out under an agreement in accordance with any enactment relating to hire purchase;
- (e) exchange or dispose of for any valuable consideration.

## **PART I—ESTABLISHMENT OF THE AGRICULTURAL MARKETING BOARD**

### **3 Agricultural Marketing Board**

(1) There is established for the purposes of this Act the Agricultural Marketing Board which shall be a body corporate.

(2) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Board, if signed by the chairman or the vice-chairman, or by any other person duly authorised by the Board in that behalf either generally or specially, under the name of the Board.

(3) The Board shall be exempt from payment of any licence duty, registration dues, stamp duty and of any tax leviable on income under any enactment.

(4) Service of process by or on the Board shall be sufficient if made on behalf of or on the chairman.

### **4 Constitution of the Board**

(1) The Board shall consist of—

- (a) a chairman;
- (b) a representative of the Ministry of Agricultural and Natural Resources and the Environment;
- (c) a representative of the Ministry of Finance;
- (d) a representative of the Ministry of Commerce and Industry;
- (e) the Registrar of Co-operative Societies or his representative; and
- (f) not more than 7 nor less than 5 other members appointed under subsection (3).

(2) The chairman of the Board shall be appointed by the Minister and shall hold office for such term as may be determined by the Minister.

(3) The members of the Board mentioned in subsection (1)(f) shall be appointed annually by the Minister and, subject to the other provisions of this section, shall hold office for one year.

(4) A retiring appointed member shall be eligible for reappointment.

(5) The office of an appointed member shall be declared vacant by the Minister where the member—

- (a) has become insolvent or has assigned his estate for the benefit of his creditors or has made an arrangement with his creditors;
- (b) has been absent from 3 consecutive meetings of the Board without the permission of the Board;
- (c) by writing under his hand addressed to the Minister has resigned his office, and his resignation has been accepted by the Minister, or, if not so accepted,

has not been withdrawn within a month of the receipt of the resignation by the Minister;

- (d) has become incapacitated by illness or any other cause from performing his duties as a member;
- (e) has committed any misconduct, default or breach of trust in the discharge of his duties as a member of the Board or otherwise which, in the opinion of the Minister, renders him unfit to continue to be a member of the Board; or
- (f) has been convicted of an offence of such nature as in the opinion of the Minister renders it desirable that he should be removed from office.

(6) Where an appointed member's office becomes vacant through death or any cause specified in subsection (5), the Minister shall appoint a person to fill the vacancy until the expiration of the period during which the appointed member would, but for the vacation of his office, have continued in office.

(7) On the expiration of the period for which an appointed member is so appointed, he shall continue to hold office until his successor has been appointed but in no case shall such further period exceed 3 months.

(8) The constitution of the Board and any change in it shall be published in the *Gazette*.

#### **4A Vice chairman**

(1) There shall be appointed to the Board a vice chairman, who shall, where the chairman is for any reason unable to exercise the functions of his office, exercise the functions and have all the powers of the chairman.

(2) The vice chairman shall be appointed annually at the time of the constitution of the Board, by the Minister, out of the members of the Board other than the chairman.

#### **5 Meetings of the Board**

- (1) (a) The meetings of the Board shall be held at such place and time as the chairman of the Board may determine, but not less than once a month, and shall be convened by notice given by the secretary.
- (b) The secretary shall also call a meeting of the Board at the written request of any 4 appointed members of the Board or where required to do so in writing by the Minister.
- (2) (a) The chairman or, in his absence, the vice chairman shall preside at all meetings of the Board.
- (b) In the absence of the chairman and the vice chairman from any meeting the members present shall elect from among the ex officio members present a chairman who shall for the purpose of that meeting have all the powers of the chairman.
- (3) (a) The chairman and 5 members of the Board shall form a quorum.
- (b) Questions arising at any meeting of the Board shall be decided by a majority of the votes of the chairman and members present, and where at any such meeting the votes are equally divided, the chairman shall have a second or casting vote.

(4) The Board shall keep minutes of its proceedings and shall conduct its proceedings in such manner as may be prescribed or, in the absence of any express provision, in such manner as it thinks fit.

#### **6 Remuneration of members**

Any member of the Board who is not a public officer may be paid from the funds of the Board such fees as may be determined by the Minister, and the ex officio members of the Board shall be paid from those funds such allowances as the Minister thinks fit to meet any reasonable expenses incurred by them in connection with the business of the Board or any of its committees.

#### **7 Committees of the Board**

- (1) (a) The Board may appoint from its own members an executive committee and may delegate to that committee such of its powers as it thinks fit.
- (b) The chairman of the Board shall be chairman of that committee.

(2) The Board may appoint committees to carry out any general or special functions determined by the Board and may delegate to any such committee such powers as it thinks fit.

(3) Subject to the approval of the Board, each committee appointed under subsection (2) shall appoint a member as chairman, and may coopt as advisers persons who are not members of the Board.

(4) (a) Any committee appointed under this section shall—

- (i) keep minutes of its meetings;
- (ii) inform the Board of its activities; and
- (iii) conduct its proceedings in such manner as may be prescribed, or, in the absence of any express provision, in such manner as it thinks fit.

(b) Section 5(3)(b) shall apply to decisions taken by any such committee as they apply to decisions taken by the Board.

## **8 Communication of decisions**

Where any order is made or direction issued by the Board or by a committee of the Board under this Act, the Board shall cause notice of the effect of the order or direction to be given as soon as may be in the *Gazette* and in such other manner as the Board thinks necessary for bringing it to the notice of all persons who, in the opinion of the Board, ought to have notice of the order or direction.

## **9 Proceedings and liability of members**

(1) The Board shall continue in existence notwithstanding any vacancy, and shall not be disqualified for the transaction of business by reason only of any vacancy.

(2) No act or proceeding of the Board or any committee at any meeting shall be called into question on account only of the absence of any member of the Board or committee occurring through non-receipt by that manner of a notice forwarded by the secretary convening him to that meeting.

(3) No liability shall attach to the Board, the chairman, the vice chairman or to any member or coopted adviser of any committee of the Board for any loss or damage sustained by any persons as a result of the bona fide exercise or performance by the Board or committee, or by any servant or agent of the Board, of any power or duty conferred or imposed upon the Board or committee by or under this Act.

# **PART II—FUNCTIONS AND POWERS OF THE BOARD**

## **10 Functions and duties of the Board**

The functions and duties of the Board shall be—

- (a) to provide or ensure the provision of efficient marketing facilities for all controlled products at fair and reasonable prices in so far as this may be practicable under the powers conferred upon it by this Act;
- (b) to maintain the register of all producers, buying agents, millers and dealers as required by section 16;
- (c) to acquire and disseminate, to such extent as it thinks useful, market intelligence;
- (d) to operate or provide for the operation of such storage, handling, transport and processing facilities for controlled products as may in its opinion be necessary;
- (e) to buy, sell, import, export or otherwise deal in controlled products in such manner as it thinks fit and as may be authorised by this Act, and, in particular but without prejudice to the generality of the foregoing, to take possession of any controlled product due to be surrendered to it under section 17;
- (f) to take such measure as it considers necessary within the powers conferred upon it to stabilise, augment or reduce the production or prices of controlled products;
- (g) to regulate the standards and quality of controlled products; and
- (h) to do all things necessary and consistent with this Act to ensure the orderly marketing of controlled products within Mauritius.

## **11 Powers of the Board**

Subject to the general or specific approval of the Minister, the Board may—

- (a) provide, maintain, operate or control, or assist in the provision, maintenance, operation or control of, such storage, processing and handling facilities, including transport and containers, as it thinks necessary for the efficient marketing of any controlled product;
- (b) buy or otherwise acquire such quantities as it may decide, subject to sections 12 and 17, of any controlled products for sale or storage or for any other purpose, and sell or otherwise dispose of such quantities of controlled products or, in the case of their being processed, their results, as it thinks fit;
- (c) import any controlled product or export any controlled product acquired by it at such times and in such quantities and on such terms as it thinks fit;
- (d) make rules or give directions as may respectively concern them to producers, buying agents, millers or dealers relating to conditions of receipt, delivery, purchase, handling, transportation, processing, storage and sale of any controlled product and, in particular but without prejudice to the generality of the foregoing, such directions and rules may specify the manner of grading, packing and marking, places and times of delivery, and standards and types of storage accommodation;
- (e)
  - (i) appoint, employ and dismiss such persons as it thinks fit, including a General Manager, and fix the terms of their employment;
  - (ii) delegate to the General Manager power to appoint, employ and suspend from employment such categories of employee as it may by minuted resolution decide;
- (f) pay to any person in its employ remuneration according to the conditions of his appointment;
- (g) provide for persons in its employ or their dependants by means of an insurance with an insurance company, or pension or provident fund or otherwise pecuniary benefits upon leave, retirement, death or termination of service or in the event of sickness or injury;
- (h) appoint buying agents under section 16 and fix their remuneration;
- (i) enter into contracts and agreements in any country in connection with the performance of its functions;
- (j) subject to the general instructions of the Minister of Finance, borrow or advance money to enable it to carry out its functions;
- (k) pledge as security for any loan any controlled products belonging to it and pledge or mortgage any of its other property, whether movable or immovable;
- (l) require any person or class of persons to furnish such returns or information in such manner and in such form as it may request, including duplicate consignment notes in respect of any controlled product transported, processed, stored, purchased, sold or otherwise handled by that person or class or persons;
- (m) insure with any person or company against any losses, damages, risks or liabilities which it may incur;
- (n) purchase, take on lease or otherwise acquire and hold property and interests in or rights over land, water rights and any other rights which may be necessary for the efficient performance of its functions;
- (o) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (p) sell, lease, turn to account or otherwise deal with any of its assets or any part of it, whether movable or immovable, not required for its purposes for such consideration as it thinks fit;
- (q) promote the production and sales of controlled products by means of propaganda, advertising and market research;
- (r) charge for the purpose of its own operation and maintenance a cess on any controlled product, such cess being charged in such manner and at such rates as, after consulting the Board, the Minister may by notice in the *Gazette* prescribe;
- (s) carry on such further activities as may be necessary for the performance of its functions and duties under this law.

**12 Purchase of controlled products**

- (1) The Board shall buy any controlled product which—
  - (a) complies with regulations made under section 27(2)(f);
  - (b) is offered to the Board by the producer or by a buying agent who purchased such controlled product from its producer; and
  - (c) is delivered at such time and place as the Board may direct and in accordance with such instructions as the Board may give.
- (2) This section shall not be construed as requiring the Board to buy any controlled products for which a price has not been fixed by the Minister or as requiring the Board to buy any quantity of such controlled product in excess of and at any price other than that fixed by the Minister under section 14.

**PART III—CONTROLLED PRODUCTS AND PRICES****13 Declaration of controlled products**

- (1) The Minister may, by regulations, declare any product of Mauritius or any imported product to be a controlled product, and shall in like manner prescribe the area within which that product shall be a controlled product.
- (2) Different products may be declared by the Minister to be controlled products in respect of different prescribed areas.

**14 Fixing of prices**

- (1)
  - (a) The Minister may, after taking the advice of the Board, by regulations, fix or vary the quantity to be bought and the price to be paid in respect of any controlled product which is bought by the Board under section 12 or surrendered to it in accordance with section 17.
  - (b) In any regulations made under this subsection, the Minister may fix different rates and different quantities in respect of the same controlled product to be bought from the same or different producer or category of producers.
- (2) Unless otherwise specifically authorised by the Minister after consultation with the Minister of Finance, the price at which the Board shall sell any controlled product to any person for use within Mauritius shall be determined by the Board by adding to the price at which the Board purchased such controlled products an amount estimated to cover the Board's administration expenses, transport, handling, storage and processing charges, interest on loans and repayments, and such provisions for replacement, losses and contingencies, and such other charges as the Board with the approval of the Minister considers necessary in respect of that product.
- (3) The Board may, in determining under subsection (2) the price at which each controlled product is to be sold, make with the approval of the Minister, special provisions as to the prices to be paid to a producer in respect of any controlled product surrendered to the Board by that producer.

**15 Trading equalisation reserve**

- (1) Where in any year the Board has a surplus of income over expenditure from its dealings in controlled products, that surplus shall be credited to a trading equalisation reserve.
- (2) The assets representing the trading equalisation reserve may be used—
  - (a) to meet trading deficiencies;
  - (b) to stabilise the price of any controlled product;
  - (c) to provide working capital for the trading operations of the Board; or
  - (d) with the approval of the Minister, for any purpose of capital development by the Board.

**PART IV—OTHER MATTERS RELATING TO CONTROLLED PRODUCTS****16 Registration**

- (1) Subject to this section, every producer, buying agent, miller and dealer shall, before acting in any such capacity and in any event annually on 1 January, register his name with the Board and furnish to the Board—
  - (a) the address of the place or premises at which he grows or gathers his products or rears his livestock for sale on his business, as the case may be; and

- (b) such further details as the Board may by notice in the *Gazette* require, and details of any changes as they occur.
- (2) An application for registration as a buying agent may be refused by the Board in respect of any product which the applicant intends to exploit, where—
  - (a) in the opinion of the Board, the applicant will be unable to comply with the provisions of this Act relating to the keeping of books, records and rendering of returns;
  - (b) the applicant has been convicted of any offence against this Act; or
  - (c) in the opinion of the Board any such registration will not be conducive to the orderly and efficient marketing of controlled products.
- (3) The Board may cancel the registration of any person as a buying agent where the person—
  - (a) has been convicted of any offence against this Act;
  - (b) has not, in the opinion of the Board, conducted his business—
    - (i) in accordance with this Act; or
    - (ii) in a manner conducive to the orderly and efficient marketing of controlled products; or
  - (c) has notified the Board of his intention to discontinue the operations in respect of which he has been registered and has made written application for the removal of his name from the register.
- (4) The Board may cancel the registration of any person as a producer, miller or dealer where that person has notified the Board of his intention to discontinue the operations in respect of which he has been registered and has made written application for the removal of his name from the register.
- (5) Any person who has been registered under this section shall continue to be bound by all the obligations, conditions and restrictions affecting him under this Act until he has received notice in writing from the Board to the effect that his registration has been cancelled, or until his registration has lapsed, whichever is the earlier.
- (6) Any person whose application for registration is refused under subsection (2) or whose registration is cancelled by the Board under subsection (3)(a) or (b), may appeal in writing to the Minister whose decision in the matter shall be final.
- (7) All registrations shall lapse annually on 31 December unless renewed by further application as provided in subsection (1).
- (8) The Board may, by notice in the *Gazette*, exempt from the obligation imposed by subsection (1) any class of producer which in its opinion does not produce any controlled product in excess of such quantity as may be determined by the Board.

#### **17 Surrender of controlled products**

- (1) The Board may by notice published in the *Gazette* declare that any of the following controlled products are due for surrender to it—
  - (a) any controlled product grown in a prescribed area by a producer as soon as it is harvested, or in the case of any livestock, poultry or marine produce or any product derived from livestock or poultry declared by the Minister to be a controlled product under section 13(1), at the time the controlled product is offered for sale by its producer;
  - (b) any controlled product imported into any prescribed area by any person as soon as it has been so imported, so, however, that the liability of the Board in respect of the controlled product shall be limited to a figure to be fixed by the Board not exceeding the price fixed for such product under section 14.
- (2)
  - (a) Any controlled product which is due to be surrendered to the Board under this section shall be surrendered to the Board at such time and place and in such quantities as the Board or its agents may direct.
  - (b) The Board shall appoint receiving depots at which controlled products shall be surrendered.
- (3) Where the Board directs that any controlled product shall be surrendered at any place other than the receiving depot of the Board which is nearest to the place of business

of the person surrendering the controlled product, the Board shall pay the difference between the transport costs of surrendering the controlled product at that receiving depot and the transport costs of surrendering at that other place, unless that direction by the Board or its agents was occasioned by the failure of that person to surrender the controlled product at that receiving depot on the date when it should have been surrendered.

- (4) (a) Subject to paragraph (b), where the Board does not issue any direction under subsection (2), any person having in his possession or under his control any controlled product due to be surrendered under this section shall surrender the controlled product at the receiving depot which is nearest to his place of business as soon as the controlled product is in a fit state for surrender.
- (b) Any person who has been unable for any reason to comply with this subsection shall notify the Board and comply with any direction of the Board relating to the surrender of the controlled product.
- (5) (a) On the surrender of any controlled product which does not comply with regulations made under section 27(2)(f), the Board may decline to accept it and may direct that it be surrendered at a later date when it complies with those regulations or may finally reject the controlled product, and, on such rejection, the Board shall, if the person surrendering it so requires, issue to him a certificate of final rejection.
- (b) Any controlled product so rejected may be sold only to a consumer.
- (6) The Board shall issue or cause to be issued on its behalf a receipt in respect of every controlled product surrendered to it and accepted by it.
- (7) The Board shall not be subject to any obligation or liability in respect of any controlled product surrendered to it until it has taken possession of and accepted it and has issued a receipt in respect thereof in accordance with subsection (6).
- (8) No person shall remove a controlled product from a prescribed area to any point outside such prescribed area without the authority of the Board.
- (9) Except with the written consent of the Board, no dealer of any controlled product shall buy or obtain any such product otherwise than from the Board.
- (10) Every person who contravenes subsections (2), (4), (8) and (9) shall commit an offence.

#### **18 Products not due to be surrendered**

- (1) Notwithstanding section 17, there shall not be surrendered to the Board—
  - (a) any controlled product which is bona fide sold for seed by its producer, or, in the case of livestock or poultry, is bona fide sold for breeding purposes;
  - (b) any controlled product retained by its producer for consumption by him, his household, his servants, or his livestock;
  - (c) any controlled product which is imported by any person for consumption by him or his household.
- (2) No person who imports a controlled product of his own personal or household use shall sell or otherwise dispose of such controlled product to any person other than the Board.
- (3) Every person who contravenes subsection (2) shall commit an offence.

#### **19 Board may authorise sales**

Notwithstanding section 17, the Board may, by regulations, declare that any controlled product specified in the regulations and grown in the area described in them may be sold by its producer to a consumer in such area, in such quantity, during such period and in accordance with such conditions as may be specified in the regulations, and thereupon any such controlled product shall not be due to be surrendered to the Board and may be lawfully sold by its producer.

#### **20 Quota allocations**

Subject to the approval of the Minister, the Board may arrange quota allocations, rationing or other distributive schemes in respect of any controlled product due to be surrendered to it under this Act.



**21 Duties of buying agents**

(1) Every buying agent shall affix and keep affixed in a prominent position outside every place or premises at which he carries on business a notice showing the price which under section 14 he is required to pay for controlled products acquired by him on behalf of the Board from producers.

(2) The notice under subsection (1) shall be in both the English language and the language most commonly used at the place or premises where the notice is displayed.

(3) (a) No buying agent shall acquire a controlled product from a producer except at a place or premises the address of which has been furnished to the Board under section 16(1).

(b) A buying agent shall not acquire any controlled product except by purchase for cash paid on or before delivery of the controlled product at the appropriate price fixed under this Act.

(4) Every buying agent who contravenes this section shall commit an offence.

**22 Payments to buying agents**

Where a buying agent buys any controlled product from a producer on behalf of the Board, the Board shall pay to him in respect of the product a handling and transport fee which shall be reasonable and commensurate with the work and responsibilities involved.

23-25 —

**PART V—MISCELLANEOUS****26 Powers of entry and examination**

(1) (a) Subject to paragraph (b), any person generally or specifically authorised to that effect by the Minister may at any reasonable time enter upon the premises of or any land or place occupied by any producer, buying agent, miller, dealer or any other person, examine all stocks of any controlled product and all books, accounts and documents relating to the product, and require any explanation of any entries or documents referring or suspected to refer to transactions in any controlled product and may seize any such books, accounts or documents as may afford evidence of contravention of this Act or any disregard of the terms of any notice, order or direction issued under this Act.

(b) Any person authorised by the Minister under this section shall produce on request his authority to enter upon such premises, land or place.

(2) A person authorised under subsection (1) shall—

- (a) reduce to writing any explanation given to him under subsection (1);
- (b) furnish a copy of the explanation so recorded to the person who made it; and
- (c) afford such person an opportunity of reading and correcting that explanation.

(3) (a) A person authorised under subsection (1) who seizes any documents under that subsection shall give a receipt to the person from whose custody the documents have been taken.

(b) The documents shall be returned to the person from whose custody they were taken immediately after it has been decided that no prosecution will be instituted or after they have been released by the trial court, as the case may be.

**27 Regulations**

(1) The Minister, on the advice of the Board, may make regulations for the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, regulations made under subsection (1) may provide for—

- (a) the procedure and conduct of the meetings of the Board and of the committees appointed by the Board under section 7;
- (b) the leave of absence of members of the Board;
- (c) the forms and manner of issue of permits or any other documents required under this Act;
- (d) the keeping of any document by buying agents, millers, dealers and such other persons as may be prescribed;

- (e) the submission and form of returns by producers, buying agents, millers, dealers, and such other persons as may be prescribed;
- (f) the standards of quality, classification, grading and packing of any controlled product which may be accepted by the Board;
- (g) anything to be prescribed under this Act.

(3) Regulations made under this section may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 12 months.

## 28 Offences and penalties

(1) Where any person—

- (a) carries on any operation as a producer, buying agent, miller or dealer without being registered in respect of the operation;
- (b) having acquired a controlled product as a consumer sells the product or uses it for the purpose of manufacture;
- (c) being a buying agent, fails to account within the prescribed time to the Board for any controlled product acquired by him from a producer;
- (d) being a producer and having retained any controlled product for his own use under this Act, sells the product in contravention of this Act;
- (e) obstructs any person authorised under section 26 in the lawful exercise of the powers conferred by that section;
- (f) fails to give any information required from him under this Act or in any such information knowingly makes a false statement; or
- (g) fails to perform or conform to any orders, rules or directions made by the Board or a Committee of the Board,

he shall commit an offence.

(2) Any person who commits an offence under this Act shall be liable—

- (a) in the case of a first conviction, to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 12 months; or
- (b) in the case of a second or subsequent conviction, to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) (a) Subject to paragraph (b), on the conviction of any person for an offence under this Act, the court convicting the accused may, on the application of the prosecutor and in addition to any other penalty which it may inflict—

(i) where any controlled product which is the subject of the charge is proved to be in the possession of the convicted person, order that the controlled product or such portion of it as the court may determine be forfeited to the Board, and on any such order the Board may take all necessary measures to seize and dispose of any such controlled product or portion of it; or

(ii) where any controlled product which is the subject of the charge is not proved to be in the possession of the convicted person, give summary judgment in favour of the Board for an amount equal to the value of the controlled product or such portion of it as the court may determine, and the judgment shall have the same force and effect and may be executed in the same manner as if it had been given in a civil action duly instituted in that court.

(b) No magistrate shall be empowered under paragraph (a) to give any such judgment for an amount in excess of the jurisdiction conferred upon him by law.

(4) On the hearing of any application made under subsection (3), the court shall, for the purpose of determining the convicted person's liability, refer to the proceedings and evidence at the trial and hear such further evidence as may be tendered by the prosecutor and the convicted person, and the value of the controlled product concerned shall be deemed to be that of an equal quality of that product calculated at the current selling prices within Mauritius unless the accused proves that its value is less.

## 29 Evidence

(1) Subject to subsection (2), at the trial of any person charged with an offence under

this Act, any statement contained in any return furnished by or on behalf of the accused under this Act, and any statement or record contained in any document kept by the accused shall be admissible in evidence.

(2) Except in the case of information or statement contained in any return furnished by or on behalf of an accused person, no such statement or record shall be tendered in evidence unless the accused has been given not less than five days written notice of the intention to produce the statement or record and an opportunity to inspect it and make a copy of it.

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