

SPECIAL CROPS (NATIONAL COFFEE AUTHORITY) ORDER

under s. 4

G.N. 46/1989

3/1990

1. Citation

This Order may be cited as the Special Crops (National Coffee Authority) Order.

2. Interpretation

In this Order unless the context otherwise requires—

“Association” means the Coffee Growers Association;

“Authority” means the National Coffee Authority established under paragraph 3;

“coffee” means the beans and cherries of a coffee tree whether parchment, green or roasted and includes ground, decaffeinated, liquid and soluble coffee;

“decaffeinated coffee” means green, roasted or soluble coffee from which caffeine has been extracted;

“dried cherry” means dried fruit from coffee tree;

“green coffee” means coffee in the naked bean form before roasting;

“parchment coffee” means the green coffee bean contained in the parchment skin;

“roasted coffee” means the green coffee roasted to any degree and includes ground coffee;

3. Establishment of Authority

There is hereby established an Authority to be known as the National Coffee Authority (in this Order referred to as the “Authority”) for promoting and fostering the development of coffee in all areas of Malawi.

4. Composition

(1) The Authority shall consist of the following members appointed by the Minister—

(a) one member whom the Minister shall designate as the Chairman of the Authority;

(b) one member representing the Smallholder Coffee Authority, a body corporate established under the Smallholder Coffee Authority Order;

(c) six members representing the Association, nominated by the Association from amongst its members;

(d) the following ex-officio members—

(i) the Secretary for Agriculture or his representative,

(ii) the Secretary for Trade and Industry or his representative;

(iii) the Secretary to the Treasury or his representative; and

(iv) the Secretary for Economic Planning and Development or his representative.

(2) The Minister may appoint to the Authority such additional members, not exceeding three in number, as he deems qualified to assist the Authority in the exercise of its powers and functions, but such members shall not have the right to vote.

(3) No person shall be appointed to the Authority who—

(a) is an undischarged bankrupt;

(b) has, during the preceding three years, been sentenced for an offence against any written law to a term of imprisonment exceeding six months, otherwise than as an alternative to, or in default of, the payment of a fine;

(c) has, during the preceding five years been convicted of an offence involving fraud or dishonesty.

(4) Members of the Authority shall not by virtue only of their appointments to the Authority be deemed to be officers in the public service.

(5) The names of all members of the Authority as first constituted and every change in membership thereof shall be published in the Gazette.

5. Tenure of office of members

(1) Members of the Authority, other than ex-officio members, shall subject to this paragraph, hold office for such period, being not more than two years, as may be specified in their respective instruments of appointment.

(2) The office of a member of the Authority shall be vacated—

(a) upon the expiry of the period specified in his appointment;

(b) upon his death;

- (c) if he is adjudged bankrupt;
- (d) if he is sentenced for an offence against any written law to a term of imprisonment of, or exceeding six months, otherwise than as an alternative to, or in default of, the payment of a fine;
- (e) if he is convicted of an offence involving fraud or dishonesty;
- (f) in the case of a member other than the Chairman if he is absent, without permission of the Chairman, from three successive meetings of the Authority which he has had notice;
- (g) upon giving one month's notice in writing to the Minister of his intention to resign;
- (h) upon his being given notice by the Minister of the termination of his appointment;
- (i) if, in the opinion of the Minister, he becomes, by reason of mental or physical infirmity, incapable of performing his duties as a member of the Authority; and
- (j) if the Minister, of himself or on the advice of the Association, is satisfied that the private interests of the member conflict or are liable to conflict with his duties as a member and consequently it is inexpedient for him to continue to hold office as a member.

(3) Upon the expiry of the period for which a member of the Authority is appointed, he shall continue to hold office until his successor has been appointed, but in no case shall further period exceed three months.

6. Remuneration of members

Any member of the Authority who is not an officer in the public service shall be paid by the Authority such remuneration and allowances as the Minister may determine.

7. Meetings

(1) At the first meeting of the Authority, the members present shall elect a Vice-Chairman.

(2) The Authority may meet at such places and times as the Chairman may determine and shall meet at least three times in every year unless, in the opinion of the Minister, there are valid reasons for not so doing.

(3) Meetings of the Authority shall be convened by at least seven days' notice thereof in writing being given to the members by the Chairman.

(4) The Chairman shall preside at all meetings of the Authority or, in his absence from any meeting, the Vice-Chairman, who, for the purposes of that meeting, shall exercise all of the powers and perform all of the duties of the Chairman.

(5) The Chairman or, in his absence, the Vice-Chairman together with four other members shall form a quorum.

(6) The Authority shall have the power to regulate its own procedure.

(7) Minutes of every meeting of the Authority shall be kept by the Secretary and shall be confirmed at the succeeding meeting by the Chairman or in his absence, by the Vice-Chairman.

(8) Decisions of the Authority shall be made by a majority of the members present; and the person presiding shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

8. Member to declare pecuniary interest

(1) A Member who is aware that he has a personal, proprietary or pecuniary interest in a matter which is to be considered or is being considered by the Authority shall declare the interest to the Chairman in writing and shall not be entitled to take part in the deliberations or to vote on the matter.

(2) A member who is unable to attend a session of the Authority—

(a) may, with the written consent of the Chairman submit to the Authority, in writing, his views on any matter to be considered by the Authority; and

(b) shall not be entitled to vote on any matter which has been considered by the Authority at that session.

9. Functions of the Authority

The Authority shall have the following functions—

(a) to promote the development of the coffee industry in Malawi on commercial lines;

(b) to prepare and carry out schemes for the development of the coffee industry either directly or through agents;

(c) to control the sale of coffee either directly or through agents;

(d) to control the exports and imports of coffee either directly or through agents;

(e) to approve the method of marketing coffee;

(f) to licence and register—

(i) coffee growers and coffee buyers; and

(ii) factories for processing coffee;

(g) to control all matters of a phytosanitary nature and to license and register coffee seed producers and commercial coffee plant nurseries;

(h) to appoint an agent to keep records of coffee production and sales of each grower;

(i) to control and authorize the expenditure of money collected as levy;

(j) to provide research and such other services and facilities as shall be conducive to the development of the coffee industry.

10. Powers of the Authority

The Authority shall have the following powers—

(a) with the approval of the Minister to employ agents for the implementation of any coffee industry schemes or for the performance of any function of the Authority under this Order on such terms as may be agreed;

(b) to raise loans by bank overdrafts or otherwise on terms and for purposes approved by the Minister, subject to the Finance and Audit Act; Cap. 37:01

(c) to promote and purchase shares in any company incorporated in Malawi for the purpose of growing, processing or marketing of coffee;

(d) to establish or acquire, and to operate, factories for the processing of coffee and to enter into agreements with other persons operating factories for them to purchase or process coffee;

(e) to invest or deposit at interest any moneys standing to the credit of the Authority

(f) to acquire land for the purpose of carrying out its functions under this Order;

(g) with the approval of the Minister and by notice published in the Gazette—

(i) to impose a levy or levies on growers for the purpose of financing the operations of the Authority;

(ii) to provide for any other matter which is approved by the Minister as being in the furtherance of the development of the coffee industry or incidental or conducive to the exercise of any of the functions or powers of the Authority; and

(iii) to do any other thing which will assist in the development of the coffee industry.

11. Collection of levies

Levies imposed by the Authority under paragraph 10 (g) shall be collected in such manner as the Authority may direct.

12. Appointment of staff

(1) The Authority may appoint a Secretary and such other staff as it considers necessary.

(2) The terms and conditions of service of the persons employed by the Authority shall be determined by the Authority subject to the approval of the Minister.

(3) The power to dismiss, discipline and control persons in the employment of the Authority shall be vested in the Authority.

13. Common seal

The common seal of the Authority shall not be affixed to any instrument except in pursuance of a resolution of the majority of the members of the Authority present at any meeting and in the presence of the Chairman, and such member of the Authority as the Authority shall appoint, both of whom shall sign every instrument to which the common seal is attached.

14. Signification of documents

All documents, other than those requiring seal, made by the Authority and all decisions of the Authority may be signified under the hand of the Chairman or, in his absence, the Vice-Chairman.

15. Financial year

The Minister may, by notice published in the Gazette, from time to time, determine the financial year of the Authority.

16. Auditing of accounts

(1) The accounts of the Authority shall be audited annually by an auditor approved by the Minister.

(2) The Authority shall, within a period of four months after the end of its financial year, or such longer period as the Minister may approve, cause to be prepared, signed and transmitted to the auditor—

- (a) a balance sheet showing in detail the assets and liabilities of the Authority; and
- (b) such other statements of accounts as the Minister may require.

(3) The Auditor shall be entitled to examine all books and papers in possession or control of the Authority, and may require from members, employees or agents of the Authority such information as is necessary for the performance of his duties.

(4) The Authority shall, within four months of the end of its financial year, or such longer period as the Minister may approve, submit to the Minister a report on its operations during the year, together with audited accounts.