

PINEAPPLE ACT, 1967

Date of commencement: 21st April, 1967

Arrangement of Sections

1. Short title.
2. Interpretation.
3. Pineapple levy.
4. Assessment of liability to pay the levy.
5. Payment of the levy and interest.
6. Use of the levy.
7. Pineapple research committee.
8. Audit of accounts of the association.
9. Restriction on amendments to the constitution. (Schedule)
10. Regulation.

Schedule

An Act to provide for the improvement of the pineapple industry of Eswatini by conferring on the Eswatini Pineapple Association certain rights and obligations and establishing a pineapple research committee and for incidental and connected matters.

Short title.

1. This Act may be cited as the Pineapple Act, 1967.

Interpretation.

2. In this Act, unless the context otherwise requires —

“association” means the Eswatini Pineapple Association registered in accordance with section 21 of the Companies Act, No. 7 of 1912;

“canner” means a person who processes and packs, in cans, tins, bottles or other receptacles, pineapples for sale for human or animal consumption;

“constitution” means the memorandum and articles of the association registered in accordance with the Companies Act, No. 7 of 1912;

“Director” means the Chief Agricultural Officer;

“duly qualified auditor” means an auditor whose qualifications are recognised by the law of any country as entitling him to practise as an auditor in that country;

“financial year” means a period of twelve months commencing on the first day of April;

“grower” means a grower of pineapples intended for sale which occupy a pineapple field in excess of one acre in extent, and, for the purposes of section 3(2)(a) includes a canner who grows pineapples for canning by himself;

“levy” means a levy imposed in accordance with section 3;

“Minister” means the Minister for Agriculture and Co-operatives;

“pineapple” includes extracts, by-products or waste products of pineapples;

“pineapple field” means an area of ground with pineapple plants growing therein and shall be deemed to include all contour ditches, contour-banks, paths and roads within that area which are, at the narrowest part, less than fifteen feet in width, and the boundary of the whole area shall be deemed to be represented by a notional line drawn outside the outermost plants of that area at a distance of five feet from the centre of those outermost plants;

“process” means to preserve by means of cooking, heating, freezing, the addition of other substances or by other means.

Pineapple levy.

3. (1) On the recommendation of the association, the Minister may subject to this section impose an annual levy on all growers and canners, and prescribe the method of payment thereof.

(2) Except with the consent of the association expressed at a general meeting of the association, the levy shall not exceed the following amounts in any one financial year payable —

(a) by a grower, an amount of two rand fifty cents an acre of his pineapple fields existing on the thirtieth day of June, and, subject to section 4, the amount shall be payable not later than thirty days after notice of assessment by the association has been sent to him by registered post; and

(b) by a canner, an amount of fourteen cents a ton of pineapples accepted or, in the case of pineapples grown by himself, in either case, for canning, the amount being payable monthly not later than thirty days after the end of the month during which the pineapples are accepted or used by him for canning, as the case may be.

(3) Subject to this Act, the association shall determine the amount, and the method of payment, of any levy recommended by it in accordance with subsection (1).

(4) If he decides to impose a levy in respect of a particular financial year, the Minister shall, not later than the thirty-first day of March of the preceding financial year, cause the amount, and the method of payment of such levy to be published in the *Gazette*.

Assessment of liability to pay the levy.

4. (1) The association shall assess the liability of each grower to pay the levy imposed by section 3 or 4 and shall send him a notice of assessment.

(2) A person receiving such notice of assessment may, within fourteen days of receipt thereof, request the director, in writing, to determine the area of the pineapple fields for the purposes of the assessment and the director's decision thereon shall be notified to the grower and the association, and shall be final.

(3) The association shall then send by registered post a fresh notice of assessment, in accordance with such determination, to the grower and the period of thirty days referred to in section 3(2)(a) within which the levy shall be paid, shall commence from the date of posting of such fresh notice of assessment.

Payment of the levy and interest.

5. (1) The levy shall be paid to the association in accordance with the method of payment notified under section 3(4).

(2) The association may, where it considers that the circumstances warrant it remit a levy payable by a particular grower in whole or in part.

(3) Interest, at the rate of eight per centum per annum, shall be paid on a levy not paid within the appropriate period prescribed in section 3 or 4.

(4) Notwithstanding subsection (1), the association may, if it considers that the circumstances warrant it direct a canner to collect the levy, and interest, if any, due by a grower, to the association for its account.

(5) Upon such direction, the canner shall deduct, the amounts due to the association from the proceeds of any sale to him of pineapples of the grower.

Use of the levy.

6. The association shall use the levy for the following purposes —

(a) to meet the costs of the association, including the salaries and wages of its employees;

(b) to pay, to the Government, such proportion of the cost of its research work related to the growing, processing and sale of pineapples as may be agreed with the Minister; and

(c) such other purposes as are consistent with the objects of the association.

Pineapple research committee.

7. (1) There is hereby constituted a body, to be known as the Pineapple Research Committee, consisting of four members of the association selected by the association, and two Government officers selected by the Minister.

(2) The committee shall meet at least once annually to review and prepare advice for the Director and the association on programmes of pineapple research and related matters.

Audit of accounts of the association.

8. (1) Notwithstanding anything relating to audit in the constitution or in the law relating to companies, the association shall appoint a duly qualified auditor to audit, annually, the accounts of the association.

(2) As soon as possible after such audit, the association shall deliver a copy of the accounts and the report of the auditor to the Minister.

(3) Each year the Minister shall lay the copy of the accounts so audited on the table of both Houses of Parliament.

Restriction on amendments to the constitution. (Schedule)

9. (1) Notwithstanding the law relating to companies, a purported amendment of those provisions of the constitution which are set out in the Schedule shall be of no effect unless made with the prior written consent of the Minister.

(2) The Minister shall withhold his consent if he is of opinion that the proposed amendment is not in the interests of the Eswatini pineapple industry.

(3) Whenever the constitution is amended, the Minister shall, by notice published in the *Gazette*, amend the Schedule accordingly.

Regulation.

10. The Minister may after consulting the association make regulations to implement the objects of this Act by notice in the *Gazette*.

SCHEDULE

[Section 9.]

(a) *Memorandum of Association*

Paragraphs —

3. The objects for which the Association is established are —
- (a) To assist the pineapple industry in Eswatini, and to exercise such powers and perform such duties and functions as may be given to the association under any agreement or arrangement (including any agreement or arrangement the terms of which may be determined and/or promulgated by any government authority) or under any law or proclamation applicable to growers, exporters, processors or any other persons or bodies engaged in any aspect of the pineapple industry in Eswatini;
 - (b) To promote, foster and assist the production and processing of pineapples in Eswatini;
 - (c) To provide machinery for the examination and adjustment of major grievances, and to promote agreement and co-operation between the canners and growers on all matters of mutual interest, and to reconcile differences between all sections of and interests in the Eswatini Pineapple Industry;
 - (d) To collect and circulate statistics and other information on all matters of interest to the pineapple industry;

- (e) To take steps for the improvement of the technical knowledge of persons engaged in the pineapple industry;
 - (f) To establish and maintain research projects into any matters affecting the cultivation of pineapples or the processing of pineapples or any by-products or waste product of processing;
 - (g) To do all such things as may in the opinion of the association be necessary, proper or advisable for the general advancement of the Eswatini pineapple industry or which may be necessary for or incidental or conducive to the attainment of any of the objects of the association.
4. Each of the objects of the association set out herein shall be construed in a separate and independent object and shall not in any way be altered, limited or restricted in its meaning or interpretation by reference to or inference from any other object.
5. The funds and property of the association, whencesoever derived, shall be applied solely towards the promotion of the objects of the association as set forth in this Memorandum of association and (save as is hereinafter provided for upon a dissolution of the association) no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise howsoever to the members of the association:
- Provided that nothing herein contained shall prevent the payment in good faith of remuneration to any officer or servant of the association or to any member or delegate of any member or any councillor for services actually rendered to the association or the re-imbusement to any such person of any expenses (including travelling expenses) incurred by him on the association's behalf or in connexion with his duties.
6. In carrying out its objects and exercising its powers and functions the association shall make no discrimination on grounds of race or colour, and all benefits or rights to be given or distributed to any section of the Eswatini pineapple industry or any persons engaged therein or seeking to enter the same shall be applied on a uniform basis regardless of race or colour.
9. The association shall be an association not for profit, and the payment of any dividend to its members is prohibited.
- Subject to the approval of the Minister the association shall be registered as an association not for profit in terms of Section 21 of the Eswatini Companies Act, No. 7 of 1912.

(b) *Articles of Association*

Articles —

3. There shall be two members of the association, namely the Eswatini pineapple growers association (hereinafter referred to as the "growers' association") representing producer interests and Messrs. Eswatini Cannery (Pty.) Limited hereinafter, together with any other pineapple canners or processors, referred to as "the cannery") representing canner interests. (In the event of any other companies, persons or associations becoming engaged in canning or processing fresh pineapples in Eswatini, it shall be incumbent upon them

- and upon Messrs. Eswatini Cannery (Pty) Limited to associate together in representing canner interests on this association).
6. The business and affairs of the association shall be administered by a council consisting of six councillors.
- The canners' and growers' association shall each be entitled to appoint three councillors who may, but need not be the same persons as the delegates, and also two general alternates to act for and in the place of any one or more of the three councillors appointed by it during his or their absence or inability to attend.
14. General alternates may attend meetings of the council in addition to the councillors to whom they are alternates, but they shall not be entitled to vote thereat except in the absence and in the place of one or more of the members whose alternates they are.
15. Persons who are not councillors or their general alternates may attend meetings of the council with the consent of the council but shall not be entitled to vote.
17. No business shall be transacted at any meeting of the council unless a quorum is present. A quorum shall be three councillors present in person or represented by their general alternates, and must contain at least one of the councillors, or general alternates representing absent councillors, nominated by each of the Members of the Association entitled to nominate members of the council.
- If within half an hour from the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or, if that day shall be a public holiday, the next business day; and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the councillors present and/or general alternates present and representing absent councillors shall be a quorum.
18. Each councillor shall have one vote at meetings of the council and each general alternate shall have one vote for each absent councillor whom he represents.
19. All questions arising at meetings of the council shall be decided only by a majority of votes which shall include votes of councillors nominated by each of the two members of the association or their general alternates:
- Provided that if any meeting has stood adjourned for want of a quorum, questions arising at such adjourned meeting may be decided by a simple majority of votes whether or not such majority includes the votes of councillors nominated by each of the two members of the association, or their general alternates.
20. The independent chairman shall not have a vote, and in the case of an equality of votes, neither the vice-chairman nor the deputy vice-chairman shall have a second or casting vote.
- [Amended L.N.6/1968.]
33. No business shall be transacted at any general meeting unless a quorum is present. A quorum shall be four delegates consisting of two delegates nominated by the canners' and two delegates nominated by the growers' association present in person. If within half an hour from the time appointed for

any general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or, if that day shall be a public holiday, the next business day, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the delegates present shall form a quorum.

34. Each delegate shall have one vote at general meetings.
35. All questions arising at general meetings shall be decided by a majority consisting of not less than two-thirds of the delegates present and voting at such general meetings:
Provided that there must be at least one delegate from each member of the association voting on the side of the majority:
Provided further that if any general meeting has stood adjourned for want of a quorum, questions arising at such adjourned meeting may be decided by a majority of votes consisting of at least two-thirds of all delegates present and voting at the meeting, whether or not such majority includes votes of delegates nominated by each of the two members of the association.
36. The independent chairman shall not have a vote, and in the case of an equality of votes neither the vice-chairman nor the deputy vice-chairman shall have a second or casting vote.
[Amended L.N.6/1968.]
45. In the event of a deadlock arising either in the council or in a general meeting of the association and in the event of the members being unable to resolve such deadlock by mutual agreement the matter shall be submitted to arbitration in terms of the arbitration laws in force from time to time in Eswatini, each member being entitled to nominate an arbitrator.
-

