

Chapter 18:24

AGRICULTURAL MARKETING AUTHORITY ACT

Act 26/2004

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To establish the Agricultural Marketing Authority to regulate, supervise, develop and administer the marketing of agricultural products; to confer powers on the Authority to supervise any statutory body charged with the marketing of specific agricultural products; to provide for the constitution and functions of a board of the Authority; to provide for the establishment of an Agricultural Marketing Fund for the development of the marketing of agricultural products; to provide for the imposition and collection of levies on producers, buyers and processors of agricultural products; to provide for the administration and disbursement of moneys from the Fund; to provide for the fixing of standards of quality and other matters relating to agricultural products produced in Zimbabwe; to repeal the Agricultural Products Marketing Act [Chapter 18:22]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

[Date of commencement: 1st June, 2005.]

PART I

PRELIMINARY

Short title and date of commencement

1 (1) This Act may be cited as the Agricultural Marketing Authority Act [Chapter 18:24].

(2) This Act shall come into operation on a date to be fixed by the President by statutory instrument. [SI 69 of 2005.]

Interpretation

2 In this Act—

“agricultural industry” means anything connected with the production, manufacture, preparation and marketing of agricultural products;

“agricultural product” means any animal, plant, product or thing whatsoever which is used or produced in the course of agriculture or derived from agriculture;

“agriculture”, without limiting the term, includes horticulture, viticulture, forestry and aquaculture and the use of land for any purpose of husbandry, including—

- (a) the keeping or breeding of livestock, game, poultry, animals or bees; and

- (b) the grazing of livestock or game; and
- (c) the growing of fruit, vegetables or the like;

"Authority" means the Agricultural Marketing Authority established in terms of section four;

"Board" means the Board of the Authority constituted in terms of section six;

"buyer" means a person who, by himself or his or her agents, carries on the business of buying any agricultural product that is produced in Zimbabwe;

"financial year" means the financial year of the Authority or the Fund, as the case may be, fixed in terms of section twenty-four or thirty-five, as the case may be;

"Fund" means the Agricultural Marketing Fund established in terms of section thirty-one;

"inspector" means a person appointed as an inspector in terms of section forty-six;

"levy" means a levy imposed in terms of section thirty-seven;

"member" means a member of the Board, including the chairperson;

"Minister" means the Minister responsible for agriculture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"processor" means a person who in Zimbabwe produces, manufactures or prepares for sale any product from an agricultural product of which he or she is not the producer;

"producer" means a person who, by himself or herself or his or her agents, produces an agricultural product in Zimbabwe;

"regulatory Act" means an Act governing any specific agricultural product.

Application of Act

3 (1) This Act shall apply to every agricultural product to the extent that any such agricultural product is not similarly governed by any other enactment:

Provided that the Authority may give such directions with regard to the marketing of any agricultural product governed by any other enactment as it considers fit having regard to subsection (3) of section five.

(2) Notwithstanding subsection (1), this Act shall not apply to agricultural products governed by the Pig Industry Act [Chapter 18:15] and the Tobacco Marketing and Levy Act [Chapter 18:20].

PART II

AGRICULTURAL MARKETING AUTHORITY

Establishment of Authority

4 There is hereby established an authority, to be known as the Agricultural Marketing Authority, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

Functions and powers of Authority

5 (1) Subject to this Act, any regulatory Act and any other enactment, the functions of the Authority shall be—

(a) to regulate the participation in the production, buying or processing of any agricultural product by producers, buyers or processors or classes of producers, buyers or processors of any agricultural product upon such terms and conditions, including, as appropriate, the fixing of quotas, as may be prescribed;

(b) to promote the proper marketing and fair pricing of any agricultural product produced by any producer, including producers in the communal and resettlement areas, who the Authority considers require its assistance;

(c) to properly co-ordinate its operations with those of any statutory body charged with the regulation and marketing of any agricultural product to ensure that the operations of any such statutory body accord with the purposes of the Authority and at

all times to act in the economic interests of all the parties concerned and in the national interest;

- (d) to promote contract farming of strategic crops;
- (e) to promote the efficient administration of the marketing of any agricultural product, whether on local or export markets, at all times keeping abreast of local and international market demands and trends;
- (f) to advise the Minister on the formulation of national policies in the regulation of the marketing of any agricultural product;
- (g) to review annually the general economic condition and prospects of the agricultural industry and, in particular, the marketing of agricultural products;
- (h) generally to advise the Minister on all matters connected with prices of any agricultural product, including long-term prices, marketing guarantees and subsidies, and, in particular, to make recommendations for the proper co-ordination of such prices and pricing policies among all producers, buyers and statutory bodies involved in the marketing of agricultural products;
- (i) to investigate or cause to be investigated agricultural marketing conditions in general or conditions relating to any particular agricultural product ruling on any market, whether within or outside Zimbabwe;
- (j) where so directed by the Minister with the approval of the Minister responsible for finance, to borrow such moneys as may be required by any marketing board for its working capital and to lend such moneys to the authority concerned;
- (l) to advise whether the marketing of any other agricultural product should be regulated by a statutory body under a separate regulatory Act;
- (m) to advise the Minister on the imposition or suspension of levies in terms of this Act, to review such levies and to recommend the manner in which the moneys of the Fund are to be applied; and
- (n) to require the furnishing of returns and the supply of information by producers, processors, buyers and statutory marketing boards from which the Authority shall compile vital statistics relating to agricultural products for the proper exercise by the Authority of its powers of regulation and supervision;
- (o) to carry out such further functions as may be required of the Authority by the Minister.

(2) For the better exercise of its functions, the Authority shall have the power, subject to this Act, to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Schedule either absolutely or conditionally and either solely or jointly with others.

(3) In the performance of the Authority's functions, the Board shall have regard to the impact on the agricultural industry, the national economic and social impact and the financial impact on producers, processors and buyers, of the exercise of any of its functions.

Board of Authority

6 (1) Subject to this Act, the operations of the Authority shall be directed and controlled by a board consisting of—

- (a) a chairperson appointed by the Minister; and
- (b) the chief executive, ex officio; and
- (c) such chairpersons of boards established under such regulatory Acts as the Minister, after consultation with the President, may determine, ex officio; and
- (d) not fewer than three and not more than five other members appointed by the Minister after consultation with the President and in accordance with any directions the President may give him or her.

- (2) Of the persons appointed in terms of paragraph (d) of subsection (1)—
- (a) one shall be a member of the Public Service who is an agricultural economist employed by the Ministry for which the Minister is responsible; and
 - (b) the remainder, as well as the chairperson, shall be appointed for their experience in agriculture, business or administration, and the Minister shall ensure that, so far as is possible, all producers, processors and buyers are represented.
- (3) Members of the board shall elect one of their number to be the deputy chairperson of the Board.

Disqualifications for appointment as member

- 7 (1) Subject to this Act, a person shall not be qualified for appointment as a member if—
- (a) he or she not is a citizen of Zimbabwe or ordinarily resident in Zimbabwe;
- or
- (b) he or she has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated therefrom; or
 - (ii) made an assignment to or composition with his or her creditors which has not been rescinded or set aside;
- or
- (c) he or she has been convicted in Zimbabwe or in any other country of any offence involving dishonesty or any other offence for which a term of imprisonment without the option of a fine, whether or not any portion of that sentence has been suspended, has been imposed; or
 - (d) he or she is a member of Parliament.

(2) A person shall not be qualified for appointment as a member, nor shall he or she hold office as a member, if he or she is a member of two or more other statutory bodies.

(3) For the purposes of subsection (2)—

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
 - (i) any commission established by the Constitution; or
 - (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, Vice-President, a Minister or any other statutory body or by a commission established by the Constitution.

Terms and conditions of office of members

- 8 (1) An appointed member of the Board shall hold office for such period, not exceeding three years, as the Minister may fix at the time of his or her appointment.
- (2) On the expiry of the period for which an appointed member of the Board has been appointed, he or she shall continue to hold office until he or she has been re-appointed or his or her successor has been appointed:
Provided that a member shall not continue to hold office in terms of this subsection for more than six months.
- (3) A person who ceases to be a member of the Board shall be eligible for re-appointment.
- (4) Members of the Board shall hold office on such conditions as the Minister may fix.

Vacation of office by appointed members

9 (1) An appointed member of the Board shall vacate office and his or her office shall become vacant—

(a) one month after the date he or she gives notice in writing to the Minister of his or her intention to resign office or after the expiry of such other period of notice as he or she and the Minister may agree; or

(b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—

(i) in Zimbabwe, in respect of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

or

(c) if he or she becomes disqualified in terms of paragraph (a), (b) or (c) of subsection (1) of section seven, or in terms of subsection (2) of that section, to hold office as a member; or

(d) if he or she is required in terms of subsection (2) or (3) to vacate office as a member.

(2) The Minister may require an appointed member of the Board to vacate office if the member—

(a) has been guilty of conduct which renders him or her unsuitable to continue to hold office as a member; or

(b) has failed to comply with any condition of his or her office fixed in terms of section eight; or

(c) has ceased to possess any qualification by reason of which he or she was appointed; or

(d) is mentally or physically incapable of efficiently performing his or her duties as a member.

(3) The Minister, on the recommendation of the Board, may require an appointed member of the Board to vacate office if the Minister is satisfied that the member has been absent without the consent of the chairperson of the Board from three consecutive meetings of the Board, of which he or she has been given at least seven days' notice, and that there was no just cause for the member's absence.

Suspension of appointed members of Board

10 The Minister may suspend from office an appointed member of the Board against whom criminal proceedings are instituted for an offence involving dishonesty and, whilst that member is so suspended, he or she shall not carry out any duties or be entitled to any remuneration or allowances as a member.

Filling of vacancies on Board

11 On the death of, or the vacation of office by, an appointed member, his or her office shall be filled within three months in accordance with section six.

Meetings and procedure of Board

12 (1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least four times in each financial year.

(2) The chairperson of the Board—

(a) may convene a special meeting of the Board at any time; and

(b) shall convene a special meeting of the Board on the written request of the Minister or not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairperson's receipt of the request.

(3) Written notice of a special meeting convened in terms of subsection (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of subsection (2) other than—

(a) such business as may be determined by the chairperson of the Board, where he or she convened the meeting in terms of paragraph (a) of subsection (2); or

(b) the business specified in the request for the meeting, where the chairperson of the Board convened the meeting in terms of paragraph (b) of subsection (2).

(5) The chairperson of the Board or, in his or her absence, the deputy chairperson shall preside at all meetings of the Board:

Provided that, if the chairperson and deputy chairperson are both absent from any meeting of the Board, the members present may elect one of their number to preside at that meeting as chairperson.

(6) Five members shall form a quorum at any meeting of the Board.

(7) Subject to subsection (12), anything authorized or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.

(8) With the Board's approval, the chairperson of the Board may invite any person to attend a meeting of the Board or a committee, where the chairperson considers that the person has special knowledge or experience in any matter to be considered by the Board or the committee, as the case may be, at that meeting.

(9) A person invited to attend a meeting of the Board or of a committee in terms of subsection (8) may take part in the proceedings of the Board or the committee as if he or she were a member thereof, but shall not have a vote on any question before the Board or committee, as the case may be.

(10) Subject to subsection (11) and to section fifteen, at all meetings of the Board each member present shall have one vote on any question before the Board and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote.

(11) The chief executive shall not take part in the discussion of, and shall not vote on, any question before the Board which involves his or her tenure of office or conditions of service.

(12) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Board and shall be incorporated into the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such a proposal be placed before a meeting of the Board, this subsection shall not apply to the proposal.

Committees of Board

13 (1) For the better exercise of its functions, the Board may establish one or more committees in which the Board may vest such of its functions as it considers appropriate:

Provided that the vesting of any function in a committee shall not divest the Board of that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) On the establishment of a committee in terms of subsection (1), the Board—

(a) shall appoint at least one member of the Board as a member of the committee, and that member or one of those members, as the case may be, shall be chairperson of the committee; and

(b) may appoint as members of the committee, on such terms and conditions as the Board may fix, co-opted persons who are not members of the Board.

(3) Meetings of a committee may be convened at any time and at any place by the chairperson of the Board or chairperson of the committee.

(4) Subject to sections sixteen and seventeen, the procedure to be followed at any meeting of a committee and the quorum at any such meeting shall be as fixed by the Board.

Remuneration and allowances of members of Board and committees

14 Every member of the Board or of a committee or co-opted persons shall be paid—

(a) such remuneration, if any; and

(b) such allowances to meet his or her reasonable expenses incurred in connection with the business of the Board or the committee, as the case may be; as the Board may fix with the approval of the Minister.

Disclosure of interests by members of Board and committees

15 (1) In this section—

"associate", in relation to a member, means—

(a) a person who is related to the member by blood or by marriage; or

(b) a partner, employee or employer of the member; or

(c) any body of persons, whether corporate or unincorporated, of which the member is a director or in which the member holds any office or position other than that of an auditor or in which the member holds a controlling interest.

(2) The chief executive and every member shall, upon appointment, and annually thereafter, declare to the Board in full any significant commercial or financial interest held directly or indirectly by him or her or his or her associate in accordance with such guidelines as the Board, in consultation with the Minister, may fix.

(3) A member shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to any matter in which he or she or his or her associate has an interest.

(4) Nothing in this section shall be taken to prevent members of the Board or of a committee of the Board from taking part in the consideration of, or voting on, any matter that affects members generally in their capacity as persons liable to pay revenue.

(5) Any person who contravenes subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Minutes of proceedings of Board and committees

16 (1) The Board shall cause minutes of all proceedings of and decisions taken at every meeting of the Board and of every committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as prima facie evidence of the proceedings and decisions taken at the meeting concerned.

Validity of decisions and acts of Board and committees

17 No decision or act of the Board or a committee or act that is authorized by the Board or a committee shall be invalid solely because there was a vacancy in the

membership of the Board or the committee or because a disqualified person purported to act as a member of the Board or the committee, as the case may be, at the time the decision was taken or the act was done or authorized.

Appointment and functions of chief executive of Authority

18 (1) Subject to this Act, the Board shall appoint, on such terms and conditions as the Board may fix, a person to be the chief executive of the Authority.

(2) Without the authority of the Minister, no person shall be appointed as chief executive and no person shall be qualified to hold office as chief executive if he or she would be disqualified in terms of section six if that section applied to him or her.

(3) The appointment of the chief executive shall terminate if he or she would be required in terms of section nine to vacate office if that section applied to him or her: Provided that his or her appointment shall not terminate on the ground that he or she has ceased to be a citizen of Zimbabwe or ordinarily resident in Zimbabwe, if the Minister has granted authority under subsection (2).

(4) The chief executive shall, subject to the Board's directions, supervise and manage the Authority's staff, activities, funds and property and perform such other functions on behalf of the Board as the Board may assign to him or her.

(5) Any assignment of functions in terms of subsection (4)—

(a) may be made generally or specially and subject to such conditions, restrictions, reservations and exceptions as the Board may determine;

(b) may be revoked by the Board at any time;

(c) shall not preclude the Board itself from exercising the functions.

Execution of contracts and instruments by Authority.

19 An agreement, contract or instrument approved by the Board may be entered into or executed on the Authority's behalf by any person generally or specially authorized by the Board for that purpose.

Reports of Authority

20 (1) In addition to any annual report which the Authority may be required to submit to the Minister in terms of the Audit and Exchequer Act [Chapter 22:03], the Board—

(a) shall submit to the Minister such other reports as the Minister may require; and

(b) may submit to the Minister such other reports as the Authority considers desirable;

in regard to the operations, undertakings and activities of the Authority.

(2) The Board shall give the Minister all information relating to the operations, undertakings and activities of the Authority that the Minister may at any time require.

Minister may give Board directions on matters of policy

21 (1) Subject to subsection (2), the Minister may give the Board such directions of a general character relating to the policy which the Authority is to observe in the exercise of its functions as the Minister considers to be requisite in the national interest.

(2) Before giving the Board a direction in terms of subsection (1), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal and the possible effects which the proposal may have on the marketing of agricultural products in particular and on agriculture and the national economy as a whole.

(3) After receipt of the views of the Board submitted in terms of subsection (2), the Minister may confirm, alter or withdraw any proposed direction to the Board and, where the Minister has confirmed a direction, whether altered or not, the Board shall forthwith comply with the direction.

(4) When any direction has been received by the Board in terms of this section, the Board shall set out in the Authority's annual report the direction received by it, the views expressed by it in terms of subsection (2), and the final direction given to it in terms of subsection (3).

PART III

FINANCIAL PROVISIONS RELATING TO AUTHORITY

Funds of Authority

22 The funds of the Authority shall consist of—

- (a) such moneys as may be payable to the Authority from moneys appropriated for the purpose by Act of Parliament; and
- (b) any grants from the Fund made to the Authority in terms of paragraph (a) of section thirty-four; and
- (c) any loans, donations and grants made to the Authority by any person or authority or by any government of any country; and
- (d) such moneys as may, with the approval of the Minister responsible for finance, be obtained by the Authority as loans or by way of other financial assistance; and
- (e) charges payable in terms of section thirty and any fees or charges in respect of any services rendered by the Authority; and
- (f) any other moneys or assets as may accrue to the Authority, whether in the course of its operations or otherwise.

Investment of moneys not immediately required by Authority

23 Moneys not immediately required by the Authority may be invested in such manner as the Board, in consultation with the Minister, may approve.

Financial year of Authority

24 The financial year of the Authority shall be the period of twelve months ending on the 31st December in each year.

Accounts of Authority

25 (1) The Board shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Authority's activities, funds and property, including such particular accounts and records as the Minister may direct.

(2) As soon as possible after the end of each financial year, the Board shall prepare and submit to the Minister a statement of audited accounts in respect of that financial year or in respect of such other period as the Minister may direct.

Audit of Authority's accounts

26 (1) The Authority shall appoint as auditors one or more persons approved by the Minister who are registered as public accountants in terms of the Public Accountants and Auditors Act [Chapter 27:12] to audit the accounts of the Authority.

(2) The auditors appointed in terms of subsection (1) shall make a report to the Board and the Minister on the statement of accounts prepared in terms of section twenty-five and such report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the financial affairs of the Authority.

(3) In addition to subsection (2), the Minister may require the Board to obtain from the auditors appointed in terms of subsection (1) such other reports, statements or explanations in connection with the funds, operations, investments and property of the Authority as the Minister may consider expedient.

(4) If in the opinion of the auditors appointed in terms of subsection (1)—

- (a) they have not obtained the information and explanations they require; or
- (b) any accounts and records relating thereto have not been properly kept;

or

(c) If the Authority has not complied with any provision of this Part; the auditors shall include in the report made in terms of subsection (2 or (3, as the case may be, statements to that effect.

(5) If in terms of the Audit and Exchequer Act [Chapter 22:03] the Authority's accounts are required to be audited by the Comptroller and Auditor-General, any reference in this section to auditors appointed in terms of subsection (1) shall be construed as a reference to the Comptroller and Auditor-General.

Powers of auditors

27 (1) The auditors appointed in terms of subsection (1) of section twenty-six shall be entitled at all reasonable times to require to be produced to them all accounts and other records relating thereto kept by the Authority and to require from the Chief Executive or any member or agent or employee of the Authority such information and explanations as in the auditors' opinion are necessary for the purpose of their audit.

(2) If the Chief Executive or any member or agent or employee of the Authority fails without reasonable cause to comply with the requirement of an auditor in terms of subsection (1), he or she shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both fine and such imprisonment.

Authority to make certain charges to revenue account

28 (1) The Authority shall charge to its revenue account all charges which, in the normal conduct of business, are regarded as proper to be charged to the revenue account and, in so doing, shall make proper provision in each financial year for—

(a) the depreciation or diminution in value of its assets; and

(b) the payment of interest on and all other charges and expenses incurred in connection with its activities.

(2) In charging to its revenue account all charges which in the normal conduct of business are regarded as proper to be charged to revenue account as provided in subsection (1), the Board may, in each financial year, make provision for—

(a) meeting in whole or in part increases in the cost of replacing assets to an extent approved by the Minister; and

(b) making payments to an insurance fund established by the Board to meet, wholly or in part, such of the Authority's liabilities as the Minister may approve; and

(c) making payments to a pension fund to meet, wholly or in part, superannuation liabilities of the Authority.

Establishment and operation of general reserve

29 (1) The Authority shall establish a general reserve to which, subject to this Part, may be appropriated from a surplus of income over expenditure at the end of its financial year such sums as the Board, in consultation with the Minister, may approve.

(2) Subject to this Part, moneys in the general reserve established in terms of subsection (1) may be used for such purposes as the Board, after consultation with the Minister, may consider expedient for the proper exercise by the Authority of its functions, including the development of its assets and subsidiaries.

(3) Moneys in the general reserve established in terms of subsection (1) shall not be reduced below such an amount as the Minister may fix, otherwise than for the purpose of meeting a deficiency as is provided in subsection (1) of section thirty.

Meeting of deficiencies

30 (1) If in any financial year the income of the Authority, together with any surplus income brought forward from a previous financial year, is insufficient to enable the Authority to meet the charges and to make the provision required by section twenty-

eight, the deficiency shall be met from the general reserve established in terms of section twenty-nine.

(2) If the moneys in the general reserve are insufficient for the purpose of meeting the deficiency referred to in subsection (1), the Minister may, out of moneys appropriated for the purpose by Act of Parliament, meet the whole or any portion of the amount of the deficiency outstanding after the application of the moneys in the general reserve to that purpose either at the end of the financial year or at such time thereafter as he or she considers expedient.

(3) Any payment made in terms of subsection (2) shall be regarded as a loan made by the State to the Authority and shall be repayable by the Authority on such terms and conditions as the Minister may fix.

PART IV

AGRICULTURAL MARKETING FUND

Establishment and object of Fund

31 (1) There is hereby established a fund, to be known as the Agricultural Marketing Fund, the management and control of which shall, subject to this Act, be vested in the Minister as trustee of the Fund.

(2) Subject to this Act, the object of the Fund shall be—

(a) promoting the marketing and, as may be necessary, the production of agricultural products; and

(b) fostering or stimulating demand for any agricultural product; and

(c) research into the improvement of the production, manufacture, processing, storing or marketing of any agricultural product; and

(d) the training of persons to be skilled, competent and efficient in the marketing of any agricultural products, the production and processing standards of any such products for particular markets and the training of persons in any field related to the agricultural industry as may be considered essential; and

(e) the provision of technical, consultancy and advisory services to persons engaged in the marketing of agricultural products or in the agricultural industry generally or any section of the industry; and

(f) any other purpose which, in the opinion of the Minister, is calculated to promote the agricultural industry or any section of the industry.

Composition of Fund

32 The Fund shall consist of—

(a) levies, together with any interest or surcharge payable thereon in terms of Part V;

(b) any moneys that may be payable to the Fund from moneys appropriated for the purpose by Act of Parliament;

(c) any moneys that the Fund may obtain, with the approval of the Minister and the Minister responsible for finance, by way of donations, loans or other financial assistance; and

(d) any moneys that may vest in or accrue to the Fund, whether in terms of this Act or otherwise.

Administration of Fund

33 (1) Subject to this Act, the Fund shall be administered by the Authority on behalf of and in accordance with any instructions of the Minister.

(2) With the approval of the Minister, the Authority shall open one or more banking accounts into which all moneys received on behalf of the Fund shall be paid.

Application of Fund

34 Moneys in the Fund shall be applied to the following purposes—

(a) payment of a grant to the Authority of such amount as the Minister considers the Authority will require for the purpose of meeting the expenditure incurred or to be incurred by the Authority in that financial year in performing its functions in terms of this Act;

(b) payment for any of the purposes of the Fund specified in subsection (2) of section thirty-one:

Provided that no moneys shall be applied towards any expense that is not provided for in a budget approved by the Minister for the purposes of this section;

(c) meeting the cost of administering the Fund;

(d) any other purpose which the Minister, after consultation with the Authority, considers will promote the efficient marketing of agricultural products.

Financial year of Fund

35 The financial year of the Fund shall be the period of twelve months ending on the 31st December each year.

Books of account and audit of Fund

36 (1) The Authority shall ensure that—

(a) proper accounts and other records relating thereto are kept in relation to all the financial transactions of the Fund; and

(b) in respect of each financial year—

(i) a balance-sheet; and

(ii) a statement of the transactions referred to in paragraph (a);

are prepared without undue delay.

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General, who shall have all the powers conferred upon him or her by section 9 of the Audit and Exchequer Act [Chapter 22:03] as though the assets of the Fund were public moneys or State property and persons employed by the Authority were employees of the State.

PART V

LEVIES

Imposition of levies

37 (1) Except where an agricultural product is subject to the same or a similar levy in terms of any other enactment, and subject to this Part, the Minister may, in consultation with the Board, by statutory instrument, impose one or more levies on producers, processors and additionally, or alternatively, buyers of any agricultural product that is produced in Zimbabwe.

(2) Subject to this Part, in regard to a levy imposed in terms of subsection (1) the Minister may, by statutory instrument, prescribe—

(a) the persons who shall be responsible for the payment of the levy; and

(b) the persons who shall be responsible for the collection and remittal of the levy; and

(c) the manner in and times at which the levy shall be paid, collected and remitted; and

(d) the period for which the levy shall be imposed; and

(e) the imposition of interest and additionally, or alternatively, a surcharge if the levy is not paid within the time prescribed; and

(f) the registration of producers, processors and buyers for the purpose of the levy; and

(g) the books and records to be kept and the returns and information to be furnished to the Minister and the Board or any other person for the purpose of the levy.

(3) No levy shall be imposed on any agricultural product that is produced, manufactured or prepared by a producer or processor and consumed by him or her or his or her employees or by members of his or her household.

(4) All levy payments shall be remitted to the Fund.

Withdrawal, suspension or increase of levies

38 Without derogation from section 21 of the Interpretation Act [Chapter 1:01], the Minister, in consultation with the Board, may, by statutory instrument—

- (a) withdraw any levy; or
- (b) suspend any levy in whole or in part; or
- (c) increase the rate or incidence of any levy.

Consultation and approval required for imposition, withdrawal, suspension or increase of levies

39 Before publishing a statutory instrument in terms of section thirty-seven or thirty-eight, the Minister shall cause the Board to consult the organisations of producers, processors and buyers who will be affected by it.

Failure to pay, collect or remit levies

40 (1) Any person who, without lawful excuse, fails or refuses to pay, collect or remit any levy or any interest or surcharge connected therewith shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) The court convicting a person of an offence in terms of subsection (1) may, on the application of the prosecutor and in addition to any penalty it may impose, give summary judgment against the convicted person in favour of the Minister, in his or her capacity as trustee of the Fund, for the amount of any levy, interest or surcharge which the person concerned has been convicted of failing or refusing to pay, collect or remit.

Recovery of unpaid levies

41 A levy and any interest or surcharge connected therewith shall be a debt due to the Fund, and any amount of levy or of such interest or surcharge that is not paid, collected or remitted may be recovered by the Minister, in his or her capacity as trustee of the Fund, by proceedings in a court of competent jurisdiction.

Minister's powers in respect of levies in case of emergency

42 (1) If the Minister considers it necessary to do so in order to deal with any emergency that has arisen in relation to the agricultural industry or any section of that industry, the Minister may by statutory instrument—

- (a) impose a levy or increase the rate or incidence of a levy upon any producers, processors and additionally, or alternatively, buyers of any agricultural product that is produced in Zimbabwe; or
- (b) suspend any levy in whole or in part or reduce its rate or incidence.

(2) A statutory instrument made in terms of subsection (1) shall have effect for six months or for such shorter period as the Minister may fix in the instrument.

(3) Sections thirty-seven, thirty-eight, forty and forty-one shall apply, mutatis mutandis, in relation to any levy imposed or increased in terms of subsection (1).

PART VI

GENERAL

Investigation into affairs of Authority

43 (1) The Minister may at any time cause an investigation to be made into the affairs of the Authority by one or more persons appointed by him or her in writing.

(2) Any person appointed in terms of subsection (1) shall have the same powers as are conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15

to 18 of that Act shall apply, mutatis mutandis, in relation to an investigation made in terms of subsection (1) and to any person summoned to give or giving evidence at that investigation.

Information to be furnished to Minister and to Parliament

44 (1) As soon as possible and in any case not later than six months after the end of each financial year of the Authority, the Board shall transmit to the Minister in respect of—

- (a) its last preceding financial year copies of—
 - (i) a balance sheet and profit and loss account showing separately the financial details in connection with the exercise of any of its functions in terms of this Act and duly certified by the auditors appointed under section twenty-six; and
 - (ii) a full report on the activities of the Authority during the financial year and the annual report of the auditor;
- (b) such other period as the Minister may direct, a statement of accounts in respect of that period.

(2) The Minister shall lay copies of all such balance sheets, accounts and reports before Parliament on one of the fourteen days on which Parliament next sits after he or she has received them.

(3) Copies of the documents referred to in subsection (2) shall be available for inspection by any member of the public at the offices of the Authority during normal working hours.

Minister may require statistics and information

45 The Minister may direct the Authority to furnish him or her with such information and statistics as the Minister may from time to time require, and the Authority shall forthwith comply with any such direction.

Inspectors

46 The Authority may appoint persons employed by it to be inspectors for the purposes of this Act and shall furnish each person so appointed with a certificate signed by the chief executive stating that he or she has been appointed as an inspector.

Powers of entry and inspection

47 (1) Subject to this section, an inspector may at all reasonable times—

- (a) enter and inspect the premises of any person who is liable to pay or remit any levy or to submit any return in terms of this Act, or who is believed on reasonable grounds to be so liable; and
- (b) inspect and take samples of any agricultural product found in or on any premises referred to in paragraph (a); and
- (c) require any person upon premises referred to in paragraph (a)—
 - (i) to disclose all information at his or her disposal; and
 - (ii) to produce any book, statement or record or copy thereof or extract therefrom;

(d) that may relate in any way to the levy or the return; and

- (d) make copies of or take extracts from any book, statement or record referred to in paragraph (c).

(2) The powers of entry and inspection conferred by this section shall not be exercised except with the consent of the owner or person in charge of the premises concerned, or where there are reasonable grounds for believing that it is necessary to exercise them—

- (a) in the interests of public health; or
- (b) for the prevention, investigation or detection of an offence under this Act or for the obtaining of evidence relating to such an offence; or
- (c) for the enforcement of any levy.

(3) An inspector shall produce the certificate issued to him or her in terms of subsection (2) of section forty-six if required to do so by any person affected by the exercise of the inspector's powers under this section.

(4) Any person who, without lawful excuse—

(a) hinders or prevents an inspector from exercising any power under subsection (1); or

(b) fails or refuses to produce any book, statement or record when required to do so by an inspector in terms of subsection (1); or

(c) upon being required by an inspector to disclose any information in terms of subsection (1), fails or refuses to do so or provides information that is false or which he or she does not believe on reasonable grounds to be true;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Information to be kept confidential

48 (1) Every inspector and every person to whom a return is submitted in terms of this Act shall not disclose to any other person, except in the performance of his or her functions under this Act or when required to do so by any law, any information which he or she may have acquired in the course of his or her duties under this Act and which relates to the financial or business affairs of any person, undertaking or business.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Appeals

49 (1) If any person is aggrieved by any decision or action of the Board or the chief executive in the performance of the functions of the Authority, he or she may, within twenty-eight days after being notified of the decision or of the action being taken, appeal in writing to the Minister.

(2) For the purpose of determining an appeal noted in terms of subsection (1), the Minister may require the Board, the chief executive or any employee of the Authority, to furnish him or her with the reasons for the decision that is the subject of the appeal.

(3) The Minister, after due and expeditious inquiry and, except where the Board's decision is the subject of the appeal, after consultation with the Board, may make such order on any appeal noted in terms of subsection (1) as he or she considers just.

(4) An appeal shall lie to the Administrative Court against any order of the Minister in terms of subsection (3).

(5) The Board, the chief executive or an employee of the Authority, shall take all necessary steps to comply with any order made by the Minister in terms of subsection (3) or by the Administrative Court on an appeal in terms of subsection (4).

(6) The noting of an appeal in terms of this section shall not, pending the determination of the appeal, suspend the decision appealed against unless the Minister or the Administrative Court, as the case may be, directs otherwise.

Regulations

50 (1) Subject to subsection (4), the Minister may by regulation prescribe anything which by this Act is required or permitted to be prescribed or which, in his or her opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

(a) standards of quality, classification, grading and packaging of any agricultural product;

- (b) the prohibition of the production, sale, import or export of any agricultural product that does not comply with standards referred to in paragraph (a);
- (c) the varieties or breed of any agricultural product that may be produced in Zimbabwe or any area of Zimbabwe and the destruction or disposal of any agricultural product produced in contravention of such regulations;
- (d) without derogation from section forty-seven, the inspection of any agricultural product and any land or premises where it is produced, packed, sold, imported or exported, for the purpose of ensuring that it complies with standards referred to in paragraph (a);
- (e) the use of any mark or symbol to indicate agricultural products that comply with standards referred to in paragraph (a) and, subject to any other law, the prohibition of the use of such a mark or symbol on or in connection with any other agricultural products;
- (f) the assignment, to any person or authority specified or described in the regulations, of functions relating to—
 - (i) the fixing and enforcement of standards referred in paragraph (a) in relation to any particular agricultural product or class thereof;
 - (ii) the carrying out of inspections referred to in paragraph (b) for the purpose of ensuring that any particular agricultural product or class thereof complies with standards referred to in paragraph (a) and otherwise complies with the regulations;
 - (iii) the control and regulation of the use of any mark or symbol referred to in paragraph (d) in relation to any particular agricultural product or class thereof;
- (g) the destruction, after such date in each year as may be specified in the regulations, of agricultural products that are plants;
- (h) the registration of producers, processors and buyers;
- (i) the books and records to be kept and the estimates, returns and information to be furnished by producers, processors and buyers to the Authority or any other person;
- (j) the powers of inspectors and persons authorized to carry out inspections referred to in subparagraph (ii) of paragraph (f).

(3) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof:

Provided that no such penalty shall exceed a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment.

(4) The Minister shall consult the Board before making regulations in terms of this Act.

Repeal of Cap. 18:22 and savings

51 (1) Subject to subsection (2), the Agricultural Products Marketing Act [Chapter 18:22] (Act No. 10 of 1997), is repealed.

(2) All statutory instruments saved in force or made under the Agricultural Products Marketing Act [Chapter 18:22] (Act No. 10 of 1997) shall remain in force as if they had been made under the appropriate provision of this Act and may be amended or repealed accordingly.

SCHEDULE (Section 5(2))

POWERS OF AUTHORITY

1. To do any thing which this Act provides may or shall be done by the Authority.
2. To appoint upon such terms and conditions as the Authority, with the approval of the Minister, thinks fit such persons as may be necessary for conducting the affairs of the Authority and suspend or discharge any such persons.
3. Subject to paragraph 2, to pay to any person in the employ of the Authority such remuneration and allowances and grant such leave of absence as the Board thinks fit.

4. Subject to the approval of the Minister, to provide for persons in the employ of the Authority or their dependants, by means of insurance with an insurer registered in terms of the Insurance Act [Chapter 24:07] or a pension or provident fund or otherwise, pecuniary benefits upon leave, retirement, death or termination of service or in the event of distress, sickness or injury and to insure the members of the Authority against injury or death.
5. To purchase, take on lease or in exchange or otherwise acquire dwelling-houses for occupation by persons in the employ of the Authority.
6. To purchase land and construct thereon dwelling-houses for occupation by persons in the employ of the Authority.
7. To guarantee loans made to the employees of the Authority for the purchase of dwellings or for the purchase of land for the construction of dwellings or for the construction of dwellings on land which is the property of the employees of the Authority or their spouses, subject to such terms and conditions as the Authority, with the approval of the Minister responsible for finance, may determine.
8. To do any thing for the purpose of improving—
 - (a) the skill, knowledge or usefulness of persons in the employ of the Authority; or
 - (b) the efficiency of the equipment of the Authority or the manner in which the equipment is operated;and in that connection to provide or assist other persons in providing facilities for training, education and research.
9. To enter into such contracts as the Authority considers necessary for the performance of its functions or the discharge of its duties.
10. To enter into agreements with any organization connected with the control, purchase or sale of any agricultural product.
11. To insure with an insurer registered under the Insurance Act [Chapter 24:07] against any losses, damage, risks or liabilities which the Authority may incur.
12. To purchase, take on lease or in exchange or otherwise acquire and hold property and interests in or rights over land, water rights and any other rights which may be necessary or convenient for the exercise of the functions or the performance of the duties of the Authority.
13. To draw, make, accept, endorse, discount, execute and issue for the purpose of the business of the Authority promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments.
14. To promote the export or sales of any agricultural product by any means, including advertising, market research and the establishment or operation of premises, installations, plant, equipment or machinery at any place, whether inside or outside Zimbabwe.
15. To promote or embark upon research in connection with and to investigate problems affecting the handling, marketing or processing of or the methods of storing any agricultural product.
16. To provide common services for any two or more marketing boards.
17. Subject to the approval of the Minister and the Minister responsible for finance, to borrow moneys required by one or more Marketing Boards to meet the commitments of the marketing board or boards and to lend moneys so borrowed to the marketing board concerned on such terms and conditions as may be agreed between the Authority and the marketing board.
18. To pledge as security for a loan any of the property of the Authority or any property pledged to the Authority by a marketing board.

19. If the Minister so directs, to act as an agent for the State for any purpose connected with or related to the marketing of agricultural products.

20. Generally, to do all such things as are incidental or conducive to the exercise of the functions or the performance of the duties of the Authority or are incidental to the powers specified in this Schedule or which are calculated, directly or indirectly, to enhance the value of or to develop the operations, undertakings and property of the Authority.