

Chapter 18:04**PREVIOUS CHAPTER****AGRICULTURAL MARKETING AUTHORITY ACT**

Acts 21/1967, 49/1968 (s. 37), 28/1969, 16/1978, 2/1984, 29/1990, 5/1991; S.I. 566/1979.

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AN ACT to provide for the establishment of an Agricultural Marketing Authority; to

confer powers and functions on such Authority; to authorize the making of regulations in relation to designated agricultural products, other than tobacco; and to provide for matters incidental to the foregoing.

[Date of commencement: 1st October, 1967.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Agricultural Marketing Authority Act [Chapter 18:04].

2 Interpretation

In this Act—

“agricultural product” means any—

- (a) animal, animal product or product obtained from animals;
- (b) poultry, poultry product or product obtained from poultry;
- (c) plant, plant product or product obtained from plants, other than

tobacco;

“appointed member” means a member appointed in terms of paragraph (a) of subsection (1) of section five;

“Authority” means the Agricultural Marketing Authority established by section four;

“designated agricultural product” means any—

- (a) regulated agricultural product; or
- (b) agricultural product which is declared in terms of section three to be a

designated agricultural product;

“Marketing Board” means—

(a) the Cold Storage Commission established by the Cold Storage Commission Act [Chapter 18:06];

(b) the Cotton Marketing Board established by the Cotton Marketing and Control Act [Chapter 18:07];

(c) the Dairy Marketing Board established by the Dairy Produce Marketing and Levy Act [Chapter 18:09];

(d) the Grain Marketing Board established by the Grain Marketing Act [Chapter 18:14];

(e) any other board established by or in terms of an enactment to regulate the marketing of any agricultural product which is prescribed to be a Marketing Board;

“member” means a member of the Authority;

“Minister” means the Minister of Agriculture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“regulated agricultural product” means any agricultural product the marketing of which is regulated by or in terms of a regulatory Act:

“regulatory Act” means—

- (a) the Cold Storage Commission Act [Chapter 18:06];
- (b) the Cotton Marketing and Control Act [Chapter 18:07];
- (c) the Dairy Produce Marketing and Levy Act [Chapter 18:09];
- (d) the Grain Marketing Act [Chapter 18:14];

(e) any other Act regulating or providing for the regulation of the marketing of an agricultural product which is prescribed to be a regulatory Act.

3 Declaration of designated agricultural products

(1) The Minister, on the recommendation of the Authority, may, by statutory instrument, declare any agricultural product to be a designated agricultural product.

(2) Before declaring any agricultural product to be a designated agricultural product the Minister shall publish a notice in the Gazette, not less than sixty days before he

makes such declaration, specifying the agricultural product which he intends to declare to be a designated agricultural product.

(3) If after the publication of a notice in terms of subsection (2)—

(a) any organization or association representing growers or producers of an agricultural product specified in that notice notifies the Minister that it does represent such growers or producers; and

(b) the Minister is satisfied that such organization or association is sufficiently representative of such growers or producers throughout Zimbabwe; the Minister shall not declare any such agricultural product to be a designated agricultural product unless he is satisfied that—

(i) such organization or association has by referendum consulted its members who are such growers or producers; and

(ii) not less than two-thirds of such members voting in such referendum were in favour of the agricultural product being declared to be a designated agricultural product.

PART II

AGRICULTURAL MARKETING AUTHORITY

4 Establishment of Authority

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 corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

5 Constitution of Authority

(1) The Authority shall consist of—

(a) not less than two and not more than five members appointed by the Minister, after consultation with the President and in accordance with such directions as the President may give him; and

(b) the chairman of each Marketing Board; and

(c) the general manager of each Marketing Board.

(2) The Minister shall designate one of the appointed members as chairman of the Authority and another member as vice-chairman of the Authority, and the vice chairman shall exercise the functions of the chairman during any period that the chairman is unable to exercise his functions.

6 Conditions of office of appointed member

(1) An appointed member shall, subject to this Part, hold office for such period not exceeding three years as the Minister may fix on his appointment.

(2) On the expiry of the period for which an appointed member has been appointed, he shall continue to hold office until he has been reappointed or his successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for a period exceeding six months.

(3) Subject to section thirteen, an appointed member shall hold office on such conditions as the Minister may fix for members generally.

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

7 Disqualification for appointment as member

The Minister shall not appoint a person as an appointed member and no person shall be qualified to hold office as a member who—

(a) 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 or discharged; or

(ii) made an assignment to or arrangement or composition with his

creditors which has not been rescinded or set aside;

or

(b) has, within the period of five years immediately preceding the date of his proposed appointment, been sentenced to a term of imprisonment of or exceeding six months imposed without the option of a fine and has not received a free pardon.

8 Vacation of office by member

An appointed member shall vacate his office and his office shall become vacant—

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

(b) on the date he begins to serve a sentence of imprisonment the term of which is not less than six months, whether or not any portion has been suspended, imposed without the option of a fine in any country; or

(c) if he becomes disqualified in terms of paragraph (a) of section seven to hold office as an appointed member; or

(d) if he is required in terms of section nine to vacate his office; or

(e) if he is absent from three consecutive meetings of the Authority of which he has had notice, without the permission of the Authority.

9 Minister may require member to vacate office

The Minister may require an appointed member to vacate his office if the Minister is satisfied that the member—

(a) has been guilty of improper conduct as an appointed member; or

(b) has failed to comply with the conditions of his office fixed by the Minister in terms of subsection (2) of section six; or

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

10 Filling of vacancies

Subject to section five, on the death of or the vacation of office by an appointed member, the Minister may appoint a person to fill the vacancy.

11 Meetings and procedure of Authority

(1) The Authority shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit.

(2) The chairman of the Authority may himself at any time and shall, at the request in writing of not less than two members, convene a special meeting of the Authority.

(3) If, at a meeting of the Authority, the chairman and the vice-chairman are both absent, the members present may elect one of their number to preside at that meeting as chairman.

(4) A majority of members shall form a quorum at a meeting of the Authority.

(5) All acts, matters or things authorized or required to be done by the Authority may be decided by a majority vote at a meeting of the Authority at which a quorum is present.

(6) At all meetings of the Authority each member present shall have one vote on a question before the Authority and, in the event of an equality of votes, the chairman shall have, in addition to a deliberative vote, a casting vote.

12 Committees of Authority

(1) For the better exercise of its functions and powers the Authority, with the consent of the Minister, may establish one or more committees in which may be vested and on which may be imposed such of the functions and powers of the Authority as the Authority, with the consent of the Minister, may direct:

Provided that the vesting or imposition of any such functions and powers in a committee shall not thereby divest the Authority of such functions and powers and

the Authority may amend or withdraw any decision of any such committee in the exercise of its functions and powers.

(2) The chairman of the Authority or of a committee may at any time and at any place convene a meeting of that committee.

(3) The procedure of a committee shall be fixed by the Authority.

(4) On the establishment of a committee the Authority—

(a) shall appoint to that committee at least one member of the Authority who shall be the chairman of the committee;

(b) may appoint to that committee persons who are not members of the Authority.

13 Remuneration and expenses of members of Authority or committee

A member or alternate member of the Authority or a member of a committee of the Authority shall be paid from the funds of the Authority—

(a) such remuneration, if any, as the Minister may in his case fix;

(b) such allowance as the Minister may fix to meet any reasonable expenses incurred by him in connection with the business of the Authority or that committee, as the case may be.

14 Right of certain officers to attend meetings, etc., of Authority and committees

(1) Such officers of the Public Service as the Minister may designate shall, subject to subsection (2), be entitled—

(a) to attend meetings of the Authority or of a committee of the Authority; and

(b) to take part in the proceedings of the Authority or of a committee of the Authority;

as if they were members.

(2) An officer referred to in subsection (1) shall not have a vote on a question before the Authority or a committee of the Authority.

15 Validity of decisions and acts of Authority

No decision or act of the Authority or act done under the authority of the Authority shall be invalid by reason only of the fact that—

(a) the Authority consisted of less than the minimum number of members for which provision is made in subsection (1) of section five;

(b) a disqualified person acted as a member of the Authority at the time the decision was taken or the act was done or authorized.

16 Execution of contracts and instruments by Authority

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

PART III

FUNCTIONS, DUTIES AND POWERS OF AUTHORITY

17 Functions of Authority

The functions of the Authority shall be—

(a) generally, to advise the Minister on matters connected with the prices of any designated agricultural product, marketing guarantees and subsidies, and, in particular, to make recommendations for the proper co-ordination of such prices;

(b) where so directed by the Minister with the approval of the Minister responsible for finance, to borrow such moneys as may be required by one or more of the Marketing Boards for their working capital and to lend such moneys to the Marketing Board concerned;

(c) to perform any other functions conferred or imposed on the Authority by any enactment.

18 Reports of Authority

In addition to the annual reports which the Authority is required to submit to the Minister in terms of the Audit and Exchequer Act [Chapter 22:03], the Authority—

(a) may submit to the Minister such other reports as the Authority may deem advisable; and

(b) shall submit to the Minister such other reports as he may require in regard to the operations of the Authority or in relation to any matter referred to in section seventeen.

19 Powers of Authority

The Authority shall, subject to this Act, have power 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.

PART IV

FINANCIAL PROVISIONS RELATING TO AUTHORITY

20 Funds of Authority

(1) 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 Parliament;

(b) such moneys as may be payable to the Authority in terms of subsection (2) by a Marketing Board;

(c) such other moneys or assets as may vest in or accrue to the Authority, whether in the course of its operations or otherwise, including moneys paid by a grower, producer or other person for any service provided by the Authority.

(2) The Authority, with the approval of the Minister, may from time to time fix the amount to be paid in each year to the Authority by a Marketing Board which shall be calculated in such manner as the Authority, with the approval of the Minister, may determine and any amount so fixed shall be paid by the Marketing Board from its funds.

21 Guarantee of loans of Authority

Where the Authority has borrowed any money, the Marketing Boards shall be sureties and co-principal debtors for the repayment of the money so borrowed and any interest payable in respect of such borrowing.

22 Accounts of Authority

(1) The Authority shall keep proper accounts and other records relating thereto in respect of all its operations, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) The Authority shall prepare and submit to the Minister a statement of accounts in respect of each financial year or such other period as the Minister may direct.

23 Appointment of auditors and audit of accounts of Authority

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

(2) The accounts of the Authority kept in terms of subsection (1) of section twenty-two shall be examined by the auditors.

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

(4) In addition to the report referred to in subsection (3), the Minister may require the Authority to obtain from the auditors such other reports, statements or explanations in connection with the operations, undertakings and property of the Authority as the

Minister may consider expedient.

(5) If, in the opinion of the auditors—

- (a) they have not obtained the information and explanations they require;
- or
- (b) the accounts and records relating thereto have not been properly kept;
- or
- (c) the Authority has not complied with this Part;

the auditors shall include in the report made in terms of subsection (3) or (4), as the case may be, statements to that effect.

24 Powers of auditors

The auditors 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 or its agents and to require from any member or person employed by the Authority or its agents such information and explanations as in their opinion are necessary for the purposes of their audit.

PART V

GENERAL

25 Exemption of Authority from liability

No liability shall attach to the Authority or to any member thereof for any loss or damage sustained by any person as a result of the bona fide exercise or performance by the Authority or any committee thereof or by any employee or agent of the Authority of any power or duty conferred or imposed upon the Authority by this Act: Provided that this section shall not be construed so as to prevent any person from recovering, by action in any competent court, compensation for any loss or damage sustained by him which was caused by negligence or breach of contract.

26 Regulatory powers of Minister

(1) The Minister may by regulation prescribe all matters which by this Act are required or are permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Subject to any regulatory Act, regulations in terms of subsection (1) may provide for—

- (a) the regulation or control of the marketing, disposal, purchase or sale of any designated agricultural product, including—
 - (i) the standards to be observed in any designated agricultural product intended for sale;
 - (ii) the marking, labelling or packing of any designated agricultural product sold or intended for sale;
 - (iii) the furnishing of invoices or delivery notes in connection with the sale or delivery of any designated agricultural product;
 - (iv) the prices to be paid for any designated agricultural product, including the payment of transport, delivery or handling charges;
 - (v) the registration of growers or producers of or dealers in any designated agricultural product and the cancellation of such registration;
 - (vi) the payment of a deposit in respect of an appeal in connection with the registration or the cancellation of the registration of a grower, producer or dealer referred to in subparagraph (v) and the disposal of such deposit;
 - (vii) the payment of fees for the registration of growers, producers or dealers referred to in subparagraph (v) and the remission thereof;
 - (viii) the appointment of inspectors and their powers;
 - (ix) the use of any designated agricultural product for manufacturing purposes;

(b) the information or returns to be furnished by any person who grows, produces, markets or utilizes or is connected with the growing, production, marketing or utilization of any designated agricultural product.

27 Offences and penalties

Any person who contravenes this Act shall be guilty of an offence and liable to a fine not exceeding five hundred dollars or, in default of payment, to imprisonment for a period not exceeding two years.

SCHEDULE (Section 19)

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 designated 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 designated 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 designated 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.

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