THE BANANA BOARD ACT

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THE BANANA BOARD ACT

Laws 24 of 1953, 16 of 1955, 41 of 1958, 17 of 1960. Acts 16 of 1965, 24 of 1969 2nd Sch. 23 of 1970, 12 of 1985 Sch.

[1st October, 1953.]

Preliminary

1. This Act may be cited as the Banana Board Act. Short title.

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

"agent" means an agent of the Board and includes any Government department acting for and on behalf of the Board;

"approved association" means an association of persons engaged in the banana industry approved by the Board for the purposes of this Act;

"bananas" includes processed bananas;

"the Board" means the Banana Board established in accordance with this Act;

"chairman" means chairman of the Board, and includes the acting chairman; 23/1970 S. 2.

"export" means to take or cause to be taken out of this Island or the territorial waters thereof;

"limited purchasing order" means an order in writing relating to the quantity of bananas which the Board will purchase from the person to whom such order is addressed in respect of a particular banana cultivation, during any period specified in the order; 16/1965 S. 2.

"member" means member of the Board and includes chairman; 17/1960 S. 2 (1).

"the Minister" means the Minister responsible for agriculture.

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Establishment and Constitution of Board

Establishment and composition of Board.

16/1965 S. 2.
23/1970 S. 3 (a).

3.—(1) There shall be established for the purposes of this Act a body to be called the Banana Board.

(2) The Board shall be appointed by the Minister and shall consist of not less than five nor more than eight members of whom one shall be a person selected from a panel of three persons nominated by the body which the Minister recognizes as being representative of banana growers in the Island.

17/1960 S. 2 (1).

(3) The Minister may appoint a person to fill a vacancy among the members, and a member so appointed shall hold office for the residue of the term of the member whom he has succeeded.

16/1965 S. 2.
23/1970 S. 3 (b).

(4) The Minister shall appoint a chairman and a vice-chairman of the Board from amongst the members thereof.

Temporary appointments.

23/1970 S. 4.

4. In the case of the absence or inability to act of any member (in this section referred to as the permanent member), the Minister may appoint any person (in this section referred to as the temporary member) to act temporarily in the place of the permanent member, so, however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the permanent member.

Tenure of office of member.

41/1958 S. 3.

5.—(1) The appointment of every member of the Board shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

(2) Every member shall be eligible for reappointment.

Resignation.

6.—(1) Any member of the Board, other than the chairman, may at any time resign his office by instrument

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in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Board.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Removal of members; temporary chairman. 17/1960 S. 2 (1).

7.—(1) The Minister if he thinks it expedient so to do may at any time remove any member from office.

(2) In the event of the absence or inability to act of the chairman the Minister may appoint any person to act temporarily as chairman; and subject to the conditions (if any) of his appointment a person so appointed shall while so acting have all the powers and be liable to perform all the duties of the chairman; but where an appointment under this subsection is made by reason of the absence from Jamaica of the chairman in the course of the performance of the functions of his office as such, this subsection shall not operate to invalidate anything done by him in the course of such performance during such absence.

Publication of membership of Board.

8. The names of all members of the Board and every change in the membership thereof shall be published in the *Gazette*.

Incorporation.

9.—(1) The Board shall be a body corporate having perpetual succession and a common seal with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatever kind.

(2) The seal of the Board shall be authenticated by the signatures of the chairman or one member of the Board authorized to act in that behalf and the secretary of the

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Board and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman, any member authorized to act in that behalf, the secretary or such other officer as may be authorized by the Board.

17/1960 S. 2 (1).

(4) The Board may sue or be sued in their corporate name and may for all purposes be described by such name.

Procedure and meetings.

10.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written requisition for that purpose addressed to him by any two members of the Board.

23/1970 S. 5 (a).

(3) The chairman, or in his absence, the vice-chairman, shall preside at meetings of the Board; in the case of the absence of both the chairman and the vice-chairman from any meeting the Minister may appoint some other member to preside at the meeting, and if no member is so appointed or although appointed is absent, the members present shall elect one of their number to preside at the meeting; the chairman or other person presiding at a meeting shall have an original vote and, in any case in which the voting is equal, a casting vote.

17/1960 S. 2 (1). 23/1970 S. 5 (b).

(4) The quorum of the Board shall be three including the chairman or any other member presiding at the meeting.

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(5) Subject to the foregoing provisions of this section the Board shall have the power to regulate their own proceedings.

(6) The validity of any proceeding of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Functions, Duties and Powers of Board

11. Apart from any functions of the Board under the Banana Insurance Act, it shall be their duty— Functions of Board. 16/1965 S. 2.

(*a*) to promote the interests and efficiency of the banana industry of this Island and to assist in the development of that industry;

(*b*) to secure the most favourable arrangements for the purchase, handling, transportation, exportation, shipping, marketing and sale of bananas, to purchase bananas and to sell and export the same;

(*c*) to institute, conduct, finance, assist, and superintend research activities, experiments and operations—

(i) for improvement in the methods of planting and cultivation of bananas;

(ii) for the control and elimination of any disease affecting bananas; and

(iii) for the development of bananas wholly or partially immune to disease.

12.—(1) Subject to the provisions of this Act, the Board shall have power, for the purpose of the discharge of their duty under section 11— General powers of Board.

(*a*) to carry on all activities the carrying on whereof appears to them to be requisite, advantageous or

convenient for or in connection with the discharge of their said duty;

(*b*) to do anything and to enter into any transaction (whether or not involving expenditure, borrowing, granting of loans or investment of money, the acquisition of any property or rights or the disposal of any property or rights) which in their opinion is calculated to facilitate the proper discharge of their functions under this Act or is incidental or conducive thereto.

16/1965 S. 2.

(2) In particular, and without prejudice to the generality of the foregoing, the Board shall have power—

(*a*) to control and fix the prices to be paid from time to time to growers, producers or agents for bananas and to arrange for these prices to be notified in such manner as the Board shall think fit;

(*b*) subject to the provisions of the Agricultural Produce Act, to regulate from time to time the grading for sale in the Island for export, of bananas grown or produced in the Island and to arrange for any such grading to be notified in such manner as the Board shall think fit.

Borrowing powers. 17/1960 S. 2 (1). 16/1965 S. 2.

13.—(1) Subject to the provisions of subsection (2) the Board may borrow sums required by them for meeting any of their obligations or discharging any of their functions under this Act.

16/1965 S. 2.

(2) The Board shall not borrow any sums whereby the aggregate amount outstanding on loan to the Board under this Act at any one time exceeds two hundred thousand dollars without the approval of the Minister, as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected and

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an approval given in any respect for the purposes of this subsection may be either unconditional or subject to conditions.

Power of Minister responsible for finance to guarantee borrowings by the Board.

14.—(1) With the approval of the House of Representatives the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the payment of the principal and of interest on any authorized borrowings of the Board under this Act.

17/1960 S. 2 (1). 16/1965 S. 2.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct repayment out of the Consolidated Fund and assets of this Island of the amount in respect of which there has been such default.

Repayment of sums issued to meet guarantees, and of advances.

15.—(1) The Board shall make to the Accountant-General, at such times and in such manner as the Minister may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under section 14, and payments of interest on what is outstanding for the time being in respect of any sums so issued, at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

17/1960 S. 2 (1).

(2) Any sum advanced (whether before or after the commencement of this Act) by the Government of this Island or of the United Kingdom for the benefit of the banana industry of this Island shall, for the purposes of this Act and for all other purposes, be deemed to be borrowed by the Board under this Act and the amount outstanding on such sum and the interest thereon shall be repayable by the Board as if it were a sum issued in fulfilment of a guarantee given under section 14.

16/1965 S. 2.

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Remuneration of members. 17/1960 S. 2 (1).

16. The Board shall pay to each member of the Board, in respect of his office as such, such, if any, remuneration and allowances as the Minister may determine and to the chairman, in respect of his office as such, such, if any, remuneration and allowances (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as may be so determined.

Appointment of officers, agents and servants. 16/1965 S. 2.

17.—(1) The Board may appoint and employ at such remuneration and on such terms and conditions as they think fit a secretary and such officers, agents and servants as they deem necessary for the proper carrying out of their various functions.

16/1965 S. 2.

(2) Where a person is employed under this section partly for the purposes of this Act and partly for the purposes of the Banana Insurance Act, he may be remunerated with money forming part of the funds of the Board under this Act and such proportion of his remuneration as the Board thinks proper may be recouped from the funds of the Board under the Banana Insurance Act in respect of services rendered by him in pursuance of that Act.

Delegation of power. 17/1960 S. 2 (1).

18.—(1) The Board may delegate to the chairman such of their functions under this Act subject to such conditions (if any) as they think proper.

16/1965 S. 2.

(2) The Board for the purpose of the performance of any of their functions under this Act may appoint committees each consisting of a member or members of the Board and such other persons as appear to the Board to be appropriate, and may delegate to any such committee such functions subject to such conditions and restrictions as may be specified in the resolution of appointment; and in relation to such other persons section 16 shall have the like effect as it has in relation to members.

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(3) Nothing in this section shall be deemed to authorize the Board to delegate to the chairman or any committee the power to make regulations or to do any act involving extraordinary expenditure or to control or fix the price of bananas. 17/1960 S. 2 (1).

19. It shall be lawful for the Board to demand from the Commissioner of Customs and Excise or any officer of his department or from any Inspector of Agricultural Produce such information either written or oral as may from time to time be necessary to enable them to exercise or perform their functions or duties under this Act and it shall be the duty of the Commissioner of Customs and Excise or any such officer or Inspector of Agricultural Produce to supply any such information to the best of his ability. Access to information from Commissioner of Customs and Excise and Inspector of Agricultural Produce. 12/1985 Sch.

20. The Board may, with the approval of the Minister, make regulations generally for the better carrying out of the purposes of this Act and in particular but without prejudice to the generality of the foregoing may make regulations providing for— Regulations.

(*a*) the registration of persons growing or producing bananas in this Island and for the manner in which records of the quantities of bananas grown or produced by such persons shall be kept;

(*b*) the registration of persons processing bananas in this Island for export and for the manner in which records of the quantities of bananas processed by such persons shall be kept;

(*c*) the measures and methods to be adopted for the effective control and elimination of leaf spot and any other disease affecting bananas; and

(*d*) the effective control of the delivery of bananas to the Board and for the conditions to be observed with respect to the sale or delivery of bananas to the Board.

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Liability of members of Board. 16/1965 S. 2.

21. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of any of the various operations of the Board.

Powers of Minister. 17/1960 S. 2 (1). 16/1965 S. 2.

22. The Minister may, after consultation with the chairman, give to the Board directions of a general character as to the policy to be followed in the exercise and performance of their functions under this Act in relation to matters appearing to him to concern the public interest and the Board shall give effect to any such directions.

Financial Provisions

Special provisions relating to funds of Board. 16/1965 S. 2.

23.—(1) The proceeds of the sale of bananas by the Board shall accrue to and form part of the funds of the Board.

(2) The funds of the Board under this Act shall be applied towards the carrying out of their functions or duties under this Act, including the provision of moneys for—

(*a*) the payment of any cess on bananas imposed under section 21 of the Banana Insurance Act;

(*b*) financing the operations of any approved association;

(*c*) the payment of interest upon any moneys borrowed or deemed to be borrowed by the Board under this Act and the repayment of such moneys.

Reserve fund.

24.—(1) The Board shall establish a reserve fund.

(2) The management of the said fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be as the Board may determine, so, however, that no part of the said funds shall be applied otherwise than for carrying out the purposes of the Board under this Act. 16/1965 S. 2.

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Investments. 16/1965 S. 2.

25. Moneys standing to the credit of the Board under this Act may from time to time be invested in any securities in which trustees are by statute authorized to invest in this Island or elsewhere.

Accounts and audit.

26. The Board shall keep proper accounts in a form which shall conform with the best commercial standards of their receipts, payments, credits and liabilities and shall submit the same from time to time with vouchers to a duly qualified auditor to be audited.

Annual *report and* estimates. 41/1958 S. 4 (a) (b).

27.—(1) The Board shall in each year prepare and present on or before the 1st day of July to the Minister a report of their proceedings during the twelve months ending on the 31st day of December in the preceding year, including a complete report of their financial position in such form as to secure the provision of separate information in respect of each of the main activities of the Board.

(2) A copy of such report shall be laid on the Table of the House of Representatives and of the Senate and shall be published in the *Gazette* and in a daily newspaper circulating in the Island:

16/1965 S. 2.

Provided that such separate information referred to in subsection (1) as relates to the activities of the Board under the Banana Insurance Act shall be excluded from such publication.

41/1958 S. 4 (c) (d).

(3) The Board shall, as soon as may be practicable after the 1st day of October in each year, publish in a daily newspaper circulating in the Island, their estimates of revenue and expenditure under this Act in respect of the period commencing on the 1st day of January in the following year and ending on the 31st day of December of the same year.

16/1965 S. 2.

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Control of Purchase, Sale and Exportation of Bananas

Penalties.

28.—(1) From and after the commencement of this Act—

(*a*) no person shall, without the written permission of the Board, purchase from or sell to any person other than the Board any bananas;

(*b*) the Board shall, upon being required so to do by the owner of any bananas suitable, in the opinion of an Inspector of Agricultural Produce, for export, purchase such bananas at the then current prices fixed by the Board in accordance with this Act:

16/1965 S. 2.

Provided that the Board shall not be bound to purchase bananas from any person who contravenes any regulations for the time being in force relating to the registration of banana growers;

(*c*) no person other than the Board shall export or attempt to export any bananas:

Provided, however, that the Board may grant permission in writing to any person to export specified quantities of bananas.

(2) In this section "Inspector of Agricultural Produce" means an Inspector of Agricultural Produce appointed under the Agricultural Produce Act.

16/1965 S. 2.

(3) Notwithstanding the provisions of paragraph (*b*) of subsection (1), it shall be lawful for the Board from time to time, to issue limited purchasing orders to any person who cultivates fifteen acres or more of bananas, and the Board may refuse to purchase from that person any bananas in excess of the quantity specified in such limited purchasing orders during the relevant period.

(4) The Minister may from time to time by order published in the *Gazette* vary the acreage of banana cultivations specified in subsection (3).

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(5) Any person who is aggrieved by the issue of a limited purchasing order, may appeal to the Minister in the prescribed manner and the decision of the Minister upon any appeal shall be final.

(6) Upon the hearing of an appeal—

(*a*) the Minister may, subject to any rules made under section 29, award the appellant such compensation as he thinks fair and just, and may either in lieu thereof or in addition thereto direct the Board to alter or modify any limited purchasing order issued by them; and

(*b*) the Board shall give effect to the award made and the directions issued by the Minister.

(7) Any person contravening the provisions of paragraph (*a*) or (*c*) of subsection (1) shall be guilty of an offence against this Act and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding twelve months and upon each subsequent conviction shall be liable, in addition to any fine which may be imposed by the court, to imprisonment with or without hard labour for a term not exceeding twelve months.

(8) Where a company is guilty of an offence under this section every director, manager, agent and officer of the company in this Island who is knowingly a party to the contravention shall be guilty of a like offence and liable to a like penalty.

(9) Any bananas dealt with contrary to the provisions of paragraph (*a*) or (*c*) of subsection (1) may be seized by the Board and shall be forfeited to the Board and disposed of in such manner as the Board may direct.

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(10) This section shall not apply to the purchase or sale of bananas for consumption in this Island.

Rules.

16/1965 S. 3.

29. The Minister may make rules prescribing the procedure to be followed on appeal by persons aggrieved by the issue of limited purchasing orders and the compensation payable to any such person pursuant to the hearing of an appeal.

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