

**THE JAMAICA CO-OPERATIVE MARKETING
ASSOCIATION PROTECTION ACT**

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SCHEDULE

THE JAMAICA CO-OPERATIVE MARKETING
ASSOCIATION PROTECTION ACT

Cap. 172.

[7th March, 1928.]

1. This Act may be cited as the Jamaica Co-operative Marketing Association Protection Act. Short title.

2. In this Act—

“co-operative association” means any society registered under the Industrial and Provident Societies Act, and any company incorporated under the Companies Act having as its principal object the co-operative marketing of any commodity grown or manufactured in Jamaica;

Interpreta-
tion.

“co-operative marketing contract” means any contract entered into with any co-operative association to deliver to or sell through such co-operative association or in accordance with its directions any commodity grown or manufactured in Jamaica and not expressed to be made so as to exclude the provisions of this Act.

3. All co-operative associations shall have the power to provide under their articles of association or rules and regulations as the case may be and/or under any co-operative marketing contract for the payment by its members of fines and penalties and/or specific or ascertainable sums of money by way of liquidated damages for any infringement of its rules and regulations or for any breach of a co-operative marketing contract or any term thereof and may

Provision
for fines
and
penalties.

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further provide that the party found guilty of any breach of any co-operative marketing contract or of any term thereof shall pay all costs, expenses and fees in case any action in respect of such breach is brought by the co-operative association.

Liability of
third
parties.

4. Every person or company having knowledge or notice of the existence of a co-operative marketing contract who solicits or persuades or aids or abets any person to sell or deliver any agricultural or manufactured product otherwise than in accordance with the terms of such co-operative marketing contract or buys from or accepts or receives for sale or for auction or for display for sale any agricultural or manufactured product delivered by any such contracting person otherwise than in accordance with the terms of such co-operative marketing contract shall be liable on summary conviction by a Resident Magistrate to a penalty to be recovered summarily of two hundred dollars for the first offence and in default of payment to imprisonment with or without hard labour for a period not exceeding sixty days; and four hundred dollars for any subsequent offence and in default of payment such person or in the case of a company the manager or agent in Jamaica of such company shall be liable to imprisonment with or without hard labour for a period not exceeding six months; and on every conviction of any person or company for any offence under this section such person or company shall in addition be liable to pay to such co-operative association double the local market price, at the date of the offence, of the product dealt with as aforesaid in breach of the co-operative marketing contract and in respect of which such conviction shall be entered which said value shall be determined and declared by the Resident Magistrate on conviction and the said amount when declared by the Resident Magistrate shall be

deemed to be a judgment debt and shall be enforced as a judgment of the Court and the jurisdiction of the Resident Magistrate under this section shall not in any way be limited by the jurisdiction prescribed by the Judicature (Resident Magistrate's) Act or any amendment thereof or any enactment passed in substitution therefor. In the event of any person or persons absent from Jamaica or any company not registered in Jamaica becoming liable to pay the value determined and declared by a Resident Magistrate as aforesaid the said judgment shall be entered and enforceable against the manager.

5. For the purpose of the foregoing section the Resident Magistrate having jurisdiction shall be the Resident Magistrate for the parish where the offence shall be committed or where the person or company committing the offence shall reside or have his or their principal place of business or agency in Jamaica. Jurisdiction.

6. In the event of any breach or threatened breach of any provision of a co-operative marketing contract by a member of any co-operative association such association shall be entitled to an injunction to restrain such member, his agents and servants from selling or delivering the agricultural or manufactured product otherwise than in accordance with the co-operative marketing contract and to a decree for specific performance of the said co-operative marketing contract by such member. Pending the adjudication of any action brought by any co-operative association under this section and upon *ex parte* application to the Supreme Court or to any Resident Magistrate's Court having jurisdiction in the matter and upon evidence by affidavit of the breach or threatened breach and upon the giving of such undertaking or security as may be approved Injunction and specific performance.

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of by such Court or Judge, the co-operative association shall be entitled to an *interim* injunction restraining such breach or threatened breach.

Contracts to
grow and
deliver and
charge on
land.

7. The covenants and obligations imposed by a co-operative marketing contract on any member of a co-operative association shall run with the lands mentioned in such co-operative marketing contract so as to be binding on all assignees and transferees whomsoever of the said lands. The said co-operative marketing contract shall (without prejudice to any claim for taxes or rates general or parochial) create in favour of such co-operative association a charge upon all crops and agricultural or manufactured products mentioned therein and growing or to be grown on or produced from such lands to secure the due marketing of the same in accordance with the terms of the co-operative marketing contract and such charge shall be a preferential charge upon the said crops and agricultural and manufactured products:

Provided nevertheless that the directors of such co-operative association may, if the interests of the said association in their discretion warrant their so doing (with the consent of the Minister if any debt of the association owing to or guaranteed by the Government of Jamaica remain unpaid), release the said lands from the covenants and obligations contained in the co-operative marketing contract and from the charge hereby created:

Provided however that such charge if created by a lessee or tenant for years or tenant for life shall not enure for a greater estate than that of such lessee or tenant for years or tenant for life.

Every such charge shall be valid against all successors in title and subsequent assignees, transferees, mortgagees,

encumbrancers and purchasers of said lands and against all trustees in bankruptcy, trustees under any deed of assignment for the benefit of creditors, bailiffs or other officers executing any civil process and execution creditors :

Provided however that no such charge shall have priority over or affect any mortgage duly recorded or registered prior to the recording or lodging at the Office of Titles as hereinafter provided of the certificate in relation to the said co-operative marketing contract.

8. Upon the transfer or conveyance (other than a transfer or conveyance by a mortgagee under his power of sale whose mortgage has priority over a co-operative marketing contract) of any lands subject to a co-operative marketing contract such transfer or conveyance shall, subject to the provisions of section 7, be deemed to operate also as a like transfer or assignment of the said co-operative marketing contract and the person taking under such transfer or conveyance of the said lands shall be entitled to and shall become the transferee of all shares in the co-operative association which may have been issued in respect of the co-operative marketing contract relating to the said lands.

Devolution
of shares on
transfer
of land.

9. Any trustee or trustees and also any director or directors or other person charged with the management of a company or society or building society and any committee of a lunatic and any tenant for life and any person having the powers of a tenant for life under the Settled Land Act may enter into, concur in or consent to any co-operative marketing contract in respect of any crops and agricultural or manufactured products on any lands and such contract shall be valid to all intents and purposes and be binding upon all *cestuis que trust*, successors in interest and all persons in any way having interest in the said lands.

Power of
trustees and
director.

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Trustees and
directors
authorized
to
invest on
lands sub-
ject to
contracts.

10. It shall be lawful for any trustee or trustees and also any director or directors or other person charged with the management of a company or society or building society and any committee of a lunatic to invest moneys on the security of lands notwithstanding that the said lands be subject to any co-operative marketing contract and it shall be lawful for any of the said persons being interested as mortgagees of any lands to concur in or consent to any co-operative marketing contract in relation thereto or to the crops and agricultural and manufactured products thereon and therefrom; nor shall any dealings by any of the aforesaid persons in any lands subject to any co-operative marketing contract be deemed a breach of trust by reason only of the existence of the said co-operative marketing contract.

Stamp
duty, &c.

11. A stamp duty of five cents shall be paid on each original co-operative marketing contract and such stamp duty shall be in lieu of all other stamp duties, record fees, Office of Titles fees and caveat fees that would otherwise be payable in respect of any co-operative marketing contract.

Recording.

12. It shall not be necessary to record at the Record Office of Jamaica any co-operative marketing contract but (except in the case of lands under the operation of the Registration of Titles Act) a certificate signed by the chairman or one director and the secretary of any co-operative association in the form and to the effect of the Schedule shall be recorded in the Record Office within three calendar months of the date when the said co-operative marketing contract shall come into force and such recording shall be deemed notice to all persons of such co-operative marketing contract and shall also be as effective for all purposes as if the said co-operative marketing contract itself had been fully recorded.

Schedule.

13. Where lands affected by any co-operative marketing contract are under the operation of the Registration of Titles Act, upon a certificate as aforesaid being lodged at the Office of Titles, the Registrar of Titles shall cause a caveat to be entered forbidding the registration of any person as transferee or proprietor of and of any instrument affecting the lands affected by the said co-operative marketing contract until after notice of the intended registration or dealing be given to the co-operative association, and the lodging of the said certificate at the Office of Titles shall be deemed notice to all persons of such co-operative marketing contract and shall also be as effective for all purposes as if the said co-operative marketing contract itself had been duly registered.

Registered
lands.

14. No co-operative association shall be deemed to be guilty of conspiracy or combination in restraint of trade nor shall any co-operative marketing contract or any agreement or contract authorized by the rules of any co-operative association be considered illegal or in restraint of trade nor shall any co-operative association be deemed to be a trade union.

Restraint of
trade.

15. Every co-operative association shall keep at its registered office a register of all its co-operative marketing contracts which shall contain the common form of marketing contract and the name and address of each contractor, all property affected by the contract of which the co-operative association has notice, the parish or parishes where situated, the crops and acreage affected, the date of the contract and the date when the contract became operative. Such register shall subject to such reasonable restrictions as the directors of the co-operative association may from time to time impose be open to the inspection of any person between the hours of eleven a.m. and twelve noon of the

Register to
be kept and
to be open
to inspection.

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clock on each day when the office of the association is open to business on the payment by him of five cents for each inspection not exceeding fifteen minutes. If such inspection is refused the co-operative association shall incur for each refusal a penalty of four dollars recoverable in a summary manner and every director and manager of a co-operative Association who shall knowingly authorize or permit such refusal shall incur the like penalty to be recoverable in the like manner.

Minister's
power to
hold
enquiry.

16. It shall be lawful for the Minister if in his opinion it is necessary or on the requisition of twenty-five per cent or such other lesser number as the Minister may consider sufficient of the shareholders or members of any co-operative marketing association under this Act or any enactment amending the same or in substitution therefor to appoint if he think fit some person or persons to enquire into the working, management and system of operation and to audit and check all documents, accounts and investments or other matter or thing of any such co-operative association with the view of finding out and reporting on the financial policy, standing and stability of such association and whether such co-operative association is carrying out fully the aims and objects of such co-operative association.

Costs of
enquiry, &c.

17.—(1) If such appointment is made by the Minister by reason of the requisition of the said members, such members shall give proper and sufficient security as shall be approved by the Minister for the payment of all costs of and expenses incident to such enquiry before the Minister shall appoint any person or persons to enter on such enquiry.

(2) The costs of and expenses incident to any such enquiry shall be in the discretion of the Minister on the recommendation of the person or persons holding the

enquiry, and any order for costs and expenses made by the Minister by virtue of this section shall, subject to taxation of such costs and expenses by the Registrar of the Supreme Court, have the force of a judgment of the Supreme Court.

18. All officers, clerks and servants of any such co-operative association shall deliver all books, vouchers, papers, documents and other matter or thing which may be required for the purpose of such enquiry, audit and check and shall also give all information and render all such assistance as are in their power to the person or persons appointed as aforesaid.

Delivery of
books,
vouchers,
&c.

19. Any officer, clerk or other agent or servant whatsoever of any such co-operative association who fails, without reasonable excuse, the proof of which shall be on him, to deliver any book, voucher, paper, document or other matter or thing necessary for the purpose of the enquiry, audit and check or who withholds any information necessary for same shall be guilty of an offence and shall on conviction by a Resident Magistrate be liable to a fine not exceeding four hundred dollars for each offence and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Penalty
for non-
delivery.

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(Section 12)

SCHEDULE

FORM OF CERTIFICATE

We the undersigned being the Chairman (or Director) and the Secretary of (*here state the registered name of the association*) do hereby certify that a co-operative marketing contract has been entered into between the association herein named and the party or parties and according to the particulars hereunder appearing.

Name and address of Association	Name and address of other party	Property affected	Parish	Crops affected	Acreage	Date of contract	Date when contract became operative