

LAWS OF FIJI

CHAPTER 155

BANANA EXPORT AND MARKETING

Ordinances Nos. 1 of 1960, 57 of 1962

AN ACT TO ESTABLISH A BANANA MARKETING BOARD AND TO PROVIDE FOR CONTROLLING THE EXPORT OF BANANAS FROM FIJI AND THE SUPPLY OF BANANAS IN FIJI IN CONNEXION THEREWITH

[8th January, 1960.]

Short title

1. This Act may be cited as the Banana Export and Marketing Act.

Interpretation

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

"Board" means the Banana Marketing Board established by this Act;

"supplier" means a person who supplies bananas directly to the Board for export;

"inspector" means a person constituted an inspector by the terms of this Act or duly appointed an inspector by the Board.

Establishment and constitution of Banana Marketing Board

3.-(1) There is hereby established a Board to be known as the Banana Marketing Board.

(2) The Board shall consist of a Chairman and seven members all to be appointed by the Minister for a period not exceeding three years. At least five of the members shall be persons appointed to represent the interests of suppliers.

(Amended by 57 of 1962, s. 2.)

(3) In the absence of the Chairman from any meeting the members present shall appoint a deputy chairman for that meeting.

(4) The Chairman or deputy chairman shall have an original and a casting vote.

(5) The Chairman or deputy chairman and four members shall form a quorum.

(Amended by 57 of 1962, s. 2.)

(6) All orders and directions made or given by the Board shall be made or given under the hand of the Chairman.

(7) The Board may make rules governing its own procedure.

Board to be a body corporate

4.-(1) The Board shall be a body corporate under the name of the Banana Marketing Board and by that name shall have perpetual succession and a common seal. The Board may sue and be sued in respect of matters whether relating to contract, tort or otherwise, arising in connexion with the exercise of its powers or the carrying on of its operations under this Act.

(2) Service of any document on the Chairman of the Board shall be deemed to be service on the Board.

Appointment of servants

5.-(1) It shall be lawful for the Board to appoint such servants, including inspectors, as the Board may deem necessary.

(2) The Board shall notify in the Gazette the appointment of inspectors under subsection (1).

(3) Produce inspectors of the Agricultural Department shall be *ex officio* inspectors under this Act.

Liability of members

6. No member or servant of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith and without negligence in the course of the operations of the Board.

Accounts and audit

7.-(1) The Board shall keep such accounts and render such returns as the Minister may direct.

(2) The accounts of the Board shall be audited annually by an auditor appointed or nominated by the Minister.

(3) The accounts of the Board shall, as soon as may be after the close of each financial year and after audit, be published in such manner as the Minister may direct.

Report

8. The Board shall not later than the 31st day of December in each year submit to the Minister and publish in a newspaper circulating in Fiji and in such other manner as the Minister may direct a report on the operations of the Board during the year ending on the 30th day of June immediately preceding.

Income tax

9. The income of the Board shall not be liable to income tax.

Functions of the Board

10.-(1) The functions of the Board shall be as follows:-

(a) to make the best possible arrangements for the export and marketing abroad of bananas grown in Fiji and to conduct all negotiations to that end;

(b) to take such measures in relation to the banana industry in Fiji as may be desirable to secure an abundant and efficient supply of bananas of good quality for export;

(c) subject to such conditions as may be laid down in this Act or any regulations made thereunder or as may be imposed by the Board, to license suppliers;

(d) subject to such conditions as aforesaid, and to the extent of any quotas fixed by the Board, to buy all bananas of good quality properly packed in the prescribed manner which are offered for sale to the Board by licensed suppliers.

(2) The Board shall not refuse to grant a licence to a supplier except as may be provided in regulations made under this Act.

Powers of the Board

11. For the purpose of this Act, the Board may

(a) hold land;

(b) enter into any contract;

(c) fix, and from time to time vary, quotas for the supply of bananas by reference to any area, period of time or otherwise;

(d) from time to time by notice in the Gazette fix the price of bananas supplied for export;

(e) buy, sell, grade, store, process, insure, advertise and transport bananas;

(f) allot registered marks to suppliers of bananas for export;

(g) borrow money, on such terms as may be approved by the Minister;

(h) subject to such conditions as may be prescribed by regulations, cancel or suspend a supplier's licence;

(i) by authorisation in writing permit any person to carry out any of the functions referred to in paragraphs (a), (b), (c), (d) or (e) of subsection (1) of section 12, upon

such conditions as the Board thinks fit to impose, and may, if it thinks fit, by notice in the Gazette, give a general authorisation for the export of bananas to such country as may be specified in the notice and the carrying out of any functions in connexion therewith. The Board shall give such publicity to any general authorisation given under this paragraph as it shall consider best calculated to bring it to the notice of all persons concerned.

Prohibition on purchase and export of bananas

12.-(1) No person other than the Board shall, save as agent for the Board or under an authorisation issued by the Board under the provisions of section **11**-

- (a) purchase bananas for export;
- (b) export bananas;
- (c) consign bananas to any place outside Fiji;
- (d) sell or supply bananas to any person outside Fiji or to any person in Fiji as agent for, or for resale to, a person outside Fiji;
- (e) negotiate for the sale or (save as permitted in the proviso) for the supply of bananas outside Fiji:

Provided that

- (i) it shall be lawful to send as a gift to a person outside Fiji a quantity of bananas not exceeding in any one consignment two cases or such other greater or lesser amount as the Board may specify by notice in the Gazette;
- (ii) nothing in this section shall prohibit the purchase, sale or supply of bananas for taking on in Fiji as ships' stores or any negotiations for that purpose.

(2) Any person contravening or attempting to contravene any of the provisions of this section shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars. Any bananas and containers in connexion with which an offence has been committed shall be liable to be forfeited to the Board and the Board may dispose of such bananas and containers and apply the proceeds thereof towards its own funds.

Price of bananas

13. The price paid by the Board to suppliers shall be the best possible price which the Board is able to pay without incurring loss, having regard to the price received by the Board for bananas marketed by or under its direction less expenses of wharfage, port and customs service tax, and other charges incurred by the Board, and the administrative expenses of the Board. It shall be the duty of the Board to pay all suppliers an advance payment for bananas supplied to it as soon as is practicable after each shipment.

Expenses of the Board

14. From the proceeds of bananas sold by it and any other funds at its disposal the Board shall pay the expenses incurred in carrying out its duties under this Act.

Expenditure of surplus funds

15. In the event of the Board accumulating funds which in its opinion are in excess of what is required for its ordinary management, the Board may apply such excess funds in the payment of bonuses to suppliers or may, with the prior approval of the Minister, apply such excess funds to any purpose which it considers to be in the interests of the banana industry in Fiji as a whole.

Duties and powers of inspectors

16.-(1) The duties of an inspector under this Act shall be to secure the carrying out of the provisions of this Act and any regulations made thereunder.

(2) In the exercise of his duties under this Act an inspector may, where he has reasonable cause to suspect that an offence against this Act or any regulations made thereunder has occurred or is about to occur -

(a) enter and search any building or place other than a dwelling-house, and stop, board and search any vessel or vehicle which he reasonably suspects of being concerned in such offence;

(b) seize and detain bananas and containers which he reasonably suspects of being the subject matter of such offence, for such period as may be necessary to prevent them from being illegally consigned or exported or supplied or sold for export;

(3) It shall be lawful for an inspector to give any person engaged in the packing or transport of bananas directions as to the handling of or dealing with such bananas for the purpose of preventing injury or contamination and ensuring that the prescribed standards of quality are attained.

(4) Any person who resists or obstructs any search, seizure, or detention, or refuses or neglects to obey a direction given under the provisions of subsection (3) shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars.

Appeal

17. Any person to whom the Board refuses to issue a licence under paragraph (c) of section 10 or whose licence is cancelled or suspended by the Board, and any person who is aggrieved by the imposition of any condition in his licence or who is aggrieved by any other matter in respect of which a right of appeal is conferred by regulations made under this Act may, within thirty days, or such longer time as the Minister may for good cause allow, after such refusal, cancellation, suspension or imposition of a condition or happening or other event of which he is aggrieved, appeal to the Minister, whose decision shall be final.

Regulations

18. The Minister may make regulations for the purpose of carrying out the provisions of this Act and in particular for prescribing -

- (a) the manner and conditions of licensing of suppliers and the fees payable for such licences;
- (b) the conditions subject to which and the manner in which licences may be refused, cancelled or suspended;
- (c) the method of determining by quota the quantity of bananas which may be supplied for export by any licensed supplier or from any part of Fiji;
- (d) the standards of quality of bananas and of containers and the manner of inspection thereof;
- (e) penalties for failure by suppliers to fulfil their estimates;
- (f) the provision of and the specifications for the places where bananas are packed;
- (g) the allocation of registered marks for suppliers, the use of such marks and offences in relation thereto;
- (h) the time and method of picking, packing and transporting bananas and the allocation of shipping space and any arrangements which are necessary or desirable in connexion therewith;
- (i) appeals by persons aggrieved by decisions of the Board or any of its officers or servants;
- (j) any matter which is required or permitted under this Act to be prescribed by regulations;
- (k) any other matter which may be necessary or desirable for the betterment or furtherance of the banana industry in Fiji, or the marketing of bananas outside Fiji, or for carrying out any other function conferred on the Board by or under this Act.

Controlled by Ministry of Agriculture and Fisheries

Subsidiary Legislation

CHAPTER 155

BANANA EXPORT AND MARKETING

SECTION 18 - BANANA EXPORT AND MARKETING REGULATIONS

*Regulations 30th Aug., 1960 [in force 2nd Sept., 1960],
29th Dec., 14th March, 1963, 23rd Nov., 1964*

Made by the Governor in Council

Short title

1. These Regulations may be cited as the Banana Export and Marketing Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires -

"bananas" means bananas which are intended to be supplied to the Board;

"export vessel" means any vessel in which bananas are to be loaded for export;

"licensed supplier" means any person who is licensed under the provisions of these Regulations to supply bananas directly to the Board for export;

"line" means the number of cases of bananas submitted for shipment for export on a wharf at any one time under the same mark;

"plantation" means any area in which bananas are grown;

"Produce Inspector" means the person occupying that post from time to time in the Department of Agriculture.

Application for a licence

3.-(1) Every application for a supplier's licence shall be made in writing on the form prescribed in the First Schedule at such time as shall be prescribed by the board by notice in the Gazette, and shall state -

(a) the name and address of the applicant;

(b) the location of the plantation or plantations from which the applicant will obtain bananas;

(c) the location and description of the packing station where such bananas will be packed;

(d) in the case of an applicant who intends to supply bananas other than bananas grown by himself, his family or employees, the names of all persons or groups of persons whose bananas are to be supplied by the applicant to the Board.

(2) The Board may require any person to produce to the Board any contract or agreement,

or any document or paper relating to the supply of bananas to an applicant for a supplier's licence or to a licensed supplier, and the Board may require that a copy of such contract, agreement, document or paper shall be deposited with the Board, and may regard the terms and conditions of such contract, agreement, document or paper as part of the conditions of a licensed supplier's licence.

(3) A fee of two dollars shall be paid by a licensed supplier to the Board upon the grant of a licence to him and subsequently on the first day of July of each year during the currency of such licence.

(4) As soon as practicable after applications for licences have been received, the Board shall scrutinize such applications and determine a list of those which may be provisionally approved. This list shall then be published in a newspaper in general circulation in Fiji. Any person who has any objection to the grant of a licence to any person or persons so named in the provisionally approved list shall state such objection in writing to the Chairman of the Board within 14 days of the publication of the provisionally approved list and such objection shall be considered by the Board before final consideration is given to the grant of a licence to any person or persons to whom objection shall have been so made.

(5)

(a) Not less than 14 days after publication of the list of provisionally approved licences and as soon as is practicable, the Board shall meet and determine the persons to whom licences shall be granted;

(b) no licensed supplier shall be required to commence supplying bananas to the Board until at least 30 days have elapsed from his receipt of a licence;

(c) such licence shall be in the form contained in the Second Schedule.

Duration of licences

4. Suppliers' licences may be granted by the Board for a period not exceeding three years.

Refusal of licences

5. The Board shall not refuse to grant a supplier's licence to any person except on the following grounds:-

(a) where in any respect the information provided by an applicant under regulation 3 is, in the opinion of the Board, substantially incomplete or inadequate;

(b) where the applicant is unable to produce satisfactory evidence of the reasonable likelihood of his being able to supply a minimum of 200 cases of bananas per calendar month;

(Amended by Regulations 14th March, 1963.)

(c) where any person or group of persons has contracted with a licensed supplier to sell bananas to such licensed supplier and the grant of a licence to another person may, in the opinion of the Board, result in a breach of such contract between such

person or group of persons and such licensed supplier;

(d) where at any time the applicant has during the period of three years prior to the application being the holder of a supplier's licence which has been cancelled or suspended.

Bank account

6. All licensed suppliers shall maintain and operate an account with a trading or savings bank in Suva or in any place approved by the Board.

Purchase of bananas

7. The Board shall not be required to purchase any bananas submitted to it by any licensed supplier unless such bananas are supplied in the quantities, at the times, and in all respects in accordance with the lawful directions issued by the Produce Inspector with respect to such bananas and unless and until they have been passed by the Produce Inspector as having attained the quality standards prescribed and are packed in cases which in all respects conform to the standards prescribed.

Standards of quality of bananas and cases

8. - (1)

(a) Cases shall be constructed of sound, clean, seasoned and dry timber of the following dimensions - ends and centre partitions 11½ inches by 11½ inches by ¾-inch; nine battens each 26 inches by 3 inches by ⅜-inch; three lidding battens each 26 ½ inches by 3 inches by ⅜ -inch or two lidding battens each 26 ½ inches by 4 ½ inches by ⅜ -inch. Cases shall be tidily constructed with evenly spaced battens without protruding ends and without nails protruding;

(Amended by Regulations 14th March, 1963.)

(b) the ends of cases shall be constructed of white timber. The centre partition and all battens may be of white or light coloured timber;

(c) all timber of which cases are constructed shall be reasonably smoothly finished on all external surfaces and dressed or planed on surfaces in contact with bananas;

(d) nails shall be flat-headed 13 gauge and not less than 1½ inches in length. Side battens shall be nailed to ends and to the centre partition by two nails at each point. Bottom battens shall be nailed to ends only with two nails at each point. Lidding battens shall be nailed to ends only;

(e) all cases shall be bound at each end with wire.

(2) Only bananas of the varieties Veimama, Gros Michel or Cavendish of the species *Musa acuminata* shall be accepted.

(3) Bananas shall be packed firmly in single fingers with the stalk end outwards so as to contain not less than 72 lb. nett weight of bananas in each case; the bananas shall be so

packed that the lid will have a bulge of 1½ inches or thereabouts above the top line of the case;

(4) Bananas shall be three-quarters full, free from bruising, twisted stems or any form of damage which, in the opinion of an inspector, may lead to deterioration during transit; no bananas shall have more than 10 per cent of the surface affected by scab moth or other damage; bananas must be normal in shape and shall not be less than 5 ½ inches in length (including the stalk when measured straight) or such lesser length as the Board may from time to time prescribe by notice in the Gazette; bananas must be in fresh, firm condition at all times;

(Amended by Regulations 29th December, 1960, and 23rd November, 1964.)

(5) No line of bananas shall be rejected for purchase and export by an Inspector unless at least 5 per cent of the total number of cases in such line have been examined and unless 20 per cent or more of the cases so examined have been found to contain 20 bananas or more which, in the opinion of an Inspector, do not conform to the standards prescribed.

Brands

9.-(1) The Board shall be empowered at all times to determine the colour, size, shape and nature of all brands which may appear on banana cases for export and licensed suppliers may not supply bananas for export in cases which are not branded according to the Board's instructions or to which other brands or marks not approved by the Board have been added.

(2) All such approved brands shall be published by the Board in the Gazette.

Rules regarding methods of inspection

10. The Board may make rules specifying the method of inspection to be carried out by an Inspector.

Packing stations

11.-(1) The Board may require all licensed suppliers to erect shelters of a construction satisfactory to the Board to protect cases and bananas from the weather and to ensure that cases and bananas are kept clean and free from mud, mould or contamination of any kind.

(2) The Board may require a licensed supplier to display prominently a notice bearing that supplier's name and registered mark upon a shelter erected or used by him.

Registered marks

12.-(1) The Board shall allot to each licensed supplier a registered mark which may consist of letters or numbers or both and shall determine the size, colour and manner of placement of such mark on all cases of bananas submitted by a licensed supplier.

(2) The Board may order a licensed supplier to use more than one registered mark or may allot a licensed supplier more than one mark where in the opinion of the Board such licensed supplier is able to supply at least 20 cases of bananas under each mark allotted for

each shipment of bananas for export.

(3) The Board shall maintain a register of all registered marks and such register shall be available for inspection by any person at the office of the Board.

Transport

13. A licensed supplier shall be responsible at all times to ensure that bananas which he has picked or purchased, whether packed in cases or not, are handled with care in order to avoid bruising or other damage and to ensure that cases and such bananas are properly protected during transport from any damage or contamination from exposure to sun, rain, dust or other cause.

Estimates

14.- (1) Licensed suppliers shall be required from time to time as requested by the Produce Inspector to submit estimates of the quantity of bananas they expect to have available during any period.

(2) Not less than 14 days prior to the advertised date of departure of an export vessel, licensed suppliers shall provide the Produce Inspector with a final estimate of the quantity of bananas which they will have available for shipment in such vessel.

(3) The Produce Inspector shall then allocate shipping space to licensed suppliers so far as is practicable in proportion to such licensed suppliers' estimates or in accordance with any quotas which may have been applied under these regulations at least 10 days prior to the advertised date of sailing of an export vessel.

(4) Where any licensed supplier fails to supply his estimate, or his quota as the case may be, of bananas of the prescribed quality without reasonable cause (the proof whereof shall lie upon such supplier), the Board may

(a) arbitrarily allot his quota or shipping allocation for any subsequent shipment;

(b) suspend or cancel such licensed supplier's licence.

Allocation of quotas

15. When at any time or during any period the Board is unable to obtain shipping space for all bananas available from licensed suppliers, the Board shall be empowered to allot quotas to such licensed suppliers as near as possible in proportion to the quantity of bananas, so far as the Board can determine this, which each licensed supplier has available for export:

Provided that with approval of the Minister the Board may allot quotas on an area basis.

Delivery of bananas

16. - (1) Licensed suppliers shall deliver bananas to the place and at the time directed by the Produce Inspector in cases of the prescribed standard.

(2) The Produce Inspector shall not be required to accept or inspect bananas which are presented to him in cases which are not of the prescribed standard and properly branded.

(3) Not later than the time of arrival of his bananas at a place determined by the Produce Inspector, a licensed supplier shall provide such Inspector with a statement in writing of the quantity of bananas presented for inspection in the form prescribed in the Third Schedule. The licensed supplier shall upon presenting such statement to such Inspector in duplicate require such Inspector to furnish a receipt for such statement if the quantity of bananas is to be purchased by the Board. If a licensed supplier fails to produce such a statement in duplicate as hereinbefore provided, the Produce Inspector's record of the quantity of bananas submitted for inspection may not be disputed.

(4) The Produce Inspector may order that cases shall be stacked to his satisfaction and may refuse to inspect cases until the entire line is assembled and stacked to his satisfaction.

(5) All bananas delivered to a place determined by the Produce Inspector and accepted by the Produce Inspector for inspection shall immediately upon delivery pass into the control of and, if purchased by the Board, the possession of such Inspector and shall be stacked, handled and moved only in accordance with directions given by such Inspector.

(6) A licensed supplier shall provide all labour necessary for stacking and handling his cases, and for repairing or repacking such cases as may be required by the Produce Inspector. In the event of a licensed supplier failing to provide such labour when required to do so by the Produce Inspector, such Inspector may engage labour for such purposes and the cost thereof shall be deducted from the price paid to such licensed supplier for his bananas.

(7) The Produce Inspector may direct that bananas rejected as unfit for export shall not be moved in any way until such Inspector is satisfied that such bananas will not be exported from Fiji upon an export vessel.

(8) The Produce Inspector may require any licensed supplier to remove from cases of bananas supplied by him any bananas which appear to such Inspector to be in an overripe condition, and may permit such licensed supplier to replace such bananas with other bananas of the prescribed quality or may reject such cases.

Deduction of fees and expenses

17. Prior to the payment by the Board of any sums due to a licensed supplier in respect of bananas purchased by the Board from such licensed supplier, the Board may deduct the following sums:-

(a) an inspection fee of 2c a case;

(b) an additional fee of 2c a case for every hour elapsing between the time specified by the Produce Inspector for the delivery of a licensed supplier's cases for inspection to such Inspector and the time when such cases are actually delivered;

- (c) an amount of 2c a case to offset the costs of general administration of the Board;
- (d) such other amounts as may be necessary to enable the Board to discharge its statutory obligations and to pay such taxes as the Board may be required to pay in respect of the export of bananas;
- (e) labour charges incurred under the provisions of paragraph (6) of regulation 16;
- (f) any debts due to the Board from a licensed supplier.

Prescribed packing dates

18. - (1) The Board may prescribe dates before which bananas for export on any particular export vessel shall not be picked.

(2) Such prescription of dates may be exercised in respect of any supplier or any area.

Cancellation of licences

19.-(1) If a licensed supplier fails to comply with the conditions of his licence, or if the statements contained in his application for a licence are exaggerated or untrue, or if he fails to observe the provisions of these Regulations, his licence may be -

- (a) suspended summarily by the Chairman of the Board for a period not exceeding one month;
- (b) cancelled by the Board, or suspended by the Board for a period not exceeding six months.

(2) The Board shall not be liable to refund licence fees or any part thereof which may have been paid in respect of a licence which has been cancelled or suspended as herein provided or which has been surrendered by a licensed supplier.

Produce Inspector's report on shipment

20.- (1) As soon as practicable after the completion of a shipment of bananas for export the Produce Inspector shall submit to the Chairman of the Board a report specifying the names of all licensed suppliers whose bananas shall have been exported in that shipment, and shall specify in such report the number of cases allocated by him to each licensed supplier, the number of cases submitted for inspection for the purpose of exportation in that shipment by each licensed supplier, the number of each licensed supplier's case, which shall have been rejected, and the number of each licensed supplier's cases which shall have been accepted or approved for export by the Board in that shipment.

(2) The Chairman upon receipt of a Produce Inspector's prescribed report shall direct payment for bananas purchased by the Board into the Bank account of each licensed supplier specified in such report the amount due to such licensed supplier.

FIRST SCHEDULE

BANANA MARKETING BOARD

APPLICATION FOR SUPPLIER'S LICENCE

Applicant's full name
(Block Letters)

Trading name of firm, co-operative or group

Postal Address

Telegraphic Address.....

Telephone No.

Bankers.....

Quantity of bananas expected to be suppliedcases per year.

Location of plantations from which bananas will be drawn
.....
.....
.....
.....

Names of persons, .koros and/or groups who will provide bananas to the applicant.....
(Continue on reverse if necessary)

Location of packing stations

Period for which licence is sought – one - two- three years.

Signature

Date

NOTE

- (1) It is important that all information asked for be supplied in full.
- (2) Where the applicant has entered or intends to enter into a contract with other persons in respect to the supplying of bananas not grown by the applicant, a copy of the contract or proposed contract should be attached to this application.



SECOND SCHEDULE

SUPPLIER'S LICENCE

(Issued in accordance with the Banana Export and Marketing Act)

.....
of is hereby
licensed to supply bananas for export to the Banana Marketing Board from the following
sources:-

.....
.....
.....

This licence expires on

Registered Mark

Signed
for Banana Marketing Board

Date

THIRD SCHEDULE

STATEMENT OF QUANTITY OF BANANAS SUBMITTED FOR INSPECTION

To the Produce Inspector, Suva.

The bananas described hereunder are submitted for your inspection and, if passed
for export or for purchase by the Fiji Banana Marketing Board for export by
..... (*Vessel*) of (*Date*)

I hereby certify that to the best of my knowledge and belief these bananas have been
harvested, packed and transported in accordance with the Banana Export and Marketing
Regulations now in force.

Signed.....
Licensed Supplier

Mark					
No. of cases					

I certify that the above figures for cases submitted for inspection have been found correct.

.....
Produce Inspector

Date

Controlled by Ministry of Agriculture and Fisheries