

THE AGRICULTURAL MARKETING
CORPORATION ACT

ARRANGEMENT OF SECTIONS

PART I. *Preliminary*

1. Short title.
2. Interpretation.

PART II. *Establishment and powers of the Corporation*

3. Establishment of Agricultural Marketing Corporation.
4. Functions of the Corporation.
5. Policy directions.
6. Appointment as agent.

PART III. *Financial Provisions*

7. Application of revenues.
8. Borrowing powers.
9. Advances, grants and guarantee of borrowings.
10. Repayment of, and interest on, advances and sums issued to meet guarantees.
11. Reserves.
12. Accounts and audit.
13. Annual Report and Estimates.
14. Exemption from income tax and stamp duty.

PART IV. *Transfer of assets and liabilities*

15. Transfer of assets and liabilities.
16. Restriction on alienation of certain property.

AGRICULTURAL MARKETING CORPORATION

PART V. Staff

- 17. Appointment of chief executive officer, secretary and other servants and agents.
- 18. Pension scheme and other regulations.
- 19. Transfer of officers to the Corporation.
- 20. Transfer of other employees to the Corporation.
- 21. Retirement, etc., of transferred employees.

SCHEDULE

THE AGRICULTURAL MARKETING CORPORATION ACT

Acts
27 of 1963,
12 of 1976,
3 of 1978.

[1st December, 1963.]

PART I. *Preliminary*

1. This Act may be cited as the Agricultural Marketing Corporation Act. Short title.

2. In this Act—

Interpreta-
tion.

“agricultural produce” includes livestock, poultry, fish and the produce of any plant or animal;

“chairman” means the chairman of the Corporation and includes any person appointed to act temporarily as chairman;

“the Corporation” means the Agricultural Marketing Corporation established under this Act;

“functions” includes powers and duties;

“the vesting day” has the meaning assigned to that expression by section 15.

PART II. *Establishment and powers of the Corporation*

3.—(1) There shall be established for the purposes of this Act a body to be called the Agricultural Marketing Corporation. Establish-
ment of
Agricultural
Marketing
Corpora-
tion.

(2) The provisions of the Schedule shall have effect as to the constitution of the Corporation and otherwise in relation thereto. Schedule.

4.—(1) The Corporation shall have power to establish and maintain an efficient system of marketing for agricultural produce by securing the most favourable arrange- Functions of
the Corpora-
tion.

ments for the purchase, handling, sale and exportation of agricultural produce.

(2) Subject to the provisions of this Act, the Corporation may, for the purpose of exercising or discharging any of its functions under this Act, do anything and enter into any transaction which, in the opinion of the Corporation is necessary to ensure the proper exercise or discharge of its functions.

(3) In particular and without prejudice to the generality of the provisions of subsections (1) and (2) the Corporation shall have power—

- (a) to provide and maintain adequate marketing outlets for agricultural produce;
- (b) to buy and sell agricultural produce;
- (c) to provide for the collection, transportation, storage, grading, packing and processing of agricultural produce;
- (d) to import and export agricultural produce.

Policy
directions.

5. The Minister may, after consultation with the chairman, give to the Corporation directions of a general character as to the policy to be followed in the exercise or discharge of its functions in relation to matters appearing to him to concern the public interest, and the Corporation shall give effect to any such directions.

Appoint-
ment as
agent.

6. The Corporation may be appointed to be an agent of the Government or any person.

PART III. *Financial Provisions*

Application
of revenues.

7. The revenues of the Corporation shall be applied for the purposes authorized by this Act or by any other enactment relating to the functions of the Corporation.

8.—(1) Subject to the provisions of subsection (2) the Corporation may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

Borrowing powers.

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the Minister after consultation with the Minister responsible for finance as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected. An approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

9.—(1) The Minister may from time to time make advances and grants to the Corporation out of moneys provided by Parliament for the purpose.

Advances, grants and guarantee of borrowings.

(2) 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 repayment of the principal and the payment of interest on any authorized borrowings of the Corporation made otherwise than by way of advance under subsection (1).

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

10. The Corporation 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 advances made to the Corporation under section 9, and of any sums issued in

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

[The inclusion of this page is authorized by L.N. 480/1973]

fulfilment of any guarantee given thereunder, and payments of interest on any sum outstanding for the time being in respect of such advances and of any sums so issued at such rates as the Minister may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

Reserves. **11.—(1)** The Corporation shall establish and maintain such reserves as it considers necessary.

(2) The management and application of the said reserves and the sums to be carried from time to time to the credit thereof shall be as the Corporation may determine:

Provided that except with the prior approval of the Minister after consultation with the Minister responsible for finance no part of the reserves shall be applied (whether by way of investment or otherwise) for the purposes of any business or undertaking other than the activities of the Corporation mentioned in subsection (1) of section 4.

**Accounts
and audit.**

12.—(1) The Corporation shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with established accounting principles.

(2) The accounts of the Corporation shall be audited by an auditor or auditors appointed annually by the Corporation and approved by the Minister.

**Annual
Report and
Estimates.**

13.—(1) The Corporation shall prepare and present to the Minister within three months after the expiration of each financial year of the Corporation a report—

(a) dealing generally with the activities of the Corporation during its last preceding financial year;

- (b) containing such information relating to the proceedings and policy of the Corporation as in its opinion can be made public without detriment to the interests of the Corporation; and
- (c) including a statement of its accounts audited in accordance with the provisions of section 12.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon to be laid on the Table of the House of Representatives and of the Senate.

(3) Copies of the Corporation's report together with the annual statement of accounts and the auditor's report on that statement or on the accounts of the Corporation shall be published in such manner as the Minister may direct.

(4) The Corporation shall, not less than three months (or such shorter period as the Minister may in any particular case allow) before the expiration of each financial year of the Corporation, submit to the Minister for approval its estimates of revenue and expenditure in respect of its next succeeding financial year.

14.—(1) The income of the Corporation shall be exempt from income tax.

Exemption from income tax and stamp duty.

(2) All instruments executed by or on behalf of the Corporation shall be exempt from stamp duty.

PART IV. *Transfer of assets and liabilities*

15. Upon a day to be appointed by the Minister by notice in the *Gazette** (hereafter in this Act referred to as "the vesting day") by virtue of this section and without further assurance all such assets and liabilities as may be specified in the notice aforesaid, being—

Transfer of assets and liabilities.

*By legal notice No. 325/1963, the 1st December, 1963, was appointed.

[The inclusion of this page is authorized by L.N. 57/1980]

- (a) property of the Government vested in the Commissioner of Lands or the Accountant-General, as the case may be, and occupied, utilized or enjoyed by the Marketing Department immediately before the vesting day;
 - (b) debts owing to the Government by virtue of the operations of the Marketing Department; and
 - (c) liabilities of the Government in respect of the Marketing Department,
- shall be transferred to and vested in the Corporation.

Restriction on alienation of certain property.

16. The Corporation shall not without the approval of the Minister alienate, mortgage, charge or demise any immovable property transferred to and vested in the Corporation under section 15.

PART V. *Staff*

Appointment of chief executive officer, secretary and other servants and agents.
3/1978
S 2.

17. Subject to the provisions of this Part the Corporation may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a chief executive officer and a secretary and such other servants and agents as it thinks necessary for the proper performance of its functions:

Provided that the prior approval of the Minister shall be necessary for—

- (a) the appointment of any person to the post of chief executive officer or to any other post at a salary in excess of \$8,000 per annum;
- (b) the dismissal of the chief executive officer; and
- (c) the assignment to any post of a salary exceeding \$8,000 per annum.

Pension scheme and other regulations.
L.N.
149B/79

18.—(1) It shall be lawful for the Corporation, with the approval of the Minister responsible for the public service, to make regulations establishing schemes for pensions, gratu-

[The inclusion of this page is authorized by L.N. 57/1980]

ities and other retiring benefits in respect of the servants of the Corporation and such regulations may include provisions for the grant of benefits to the dependants or the legal personal representatives of such servants.

(2) The Corporation shall also have power to make regulations relating to the appointment, dismissal, discipline, hours of employment, pay and leave of its servants.

19.—(1) Subject to the provisions of this section the Corporation may on the vesting day accept the services of any person who immediately before that day was employed in the Marketing Department as the holder of a post declared to be pensionable or non-pensionable within the meaning of the Pensions Act and such persons shall be deemed to be seconded from the service of the Government to the service of the Corporation; and any person whose services are so accepted is in this section referred to as an "officer".

Transfer of
officers to
the Cor-
poration.

(2) The Governor-General may at any time determine the secondment of an officer.

(3) The Corporation shall within twelve months from the vesting day give to every officer then in its employment by virtue of subsection (1) notice in writing—

- (a) offering him employment on such terms as may be agreed upon between the Minister and the Corporation; or
- (b) of the intention of the Corporation to request the Governor-General to determine his secondment, and the secondment of every officer shall unless sooner determined cease upon the expiration of eighteen months from the vesting day.

(4) The Corporation shall not offer employment to any officer except upon terms and conditions certified under the hand of the Chief Personnel Officer to be in his opinion not less favourable than those enjoyed by the officer in his substantive post at the date of such offer.

(5) The Chief Personnel Officer shall not decline so to certify the terms and conditions comprised in any offer merely because they are not in all respects identical with or superior to the terms and conditions enjoyed by the officer concerned in his substantive post at the date of such offer, if the first mentioned terms and conditions, taken as a whole, in the opinion of the Chief Personnel Officer offer substantially equivalent or greater benefits.

(6) When an officer accepts an offer of employment made in pursuance of this section his service with the Corporation shall be deemed to have commenced, and his service with the Government to have ceased, either—

(a) at the date of the acceptance of the offer; or

(b) upon the expiration of the period of one year from the vesting day, whichever is the earlier date.

(7) A contributor making payments in pursuance of the Pensions (Civil Service Widows and Orphans) Act (now repealed) whose service with the Corporation has commenced, and whose service with the Government has ceased, by virtue of subsection (6), may, from the date of the commencement of his service with the Corporation, continue to make such payments calculated on the salary he was receiving while in the service of the Government, at the same rate and subject to the same terms as if he had continued in the service of the Government at that salary. In the event of his ceasing to contribute, or in the event of any contribution due from him not having been paid for six months, his widow, or his widow and pensionable children, or his pensionable children, as the case may be, shall be entitled, after the death of such contributor, only to a pension computed on the basis of the interest acquired by such contributor at the date of the commencement of his

service with the Corporation or of his ceasing to contribute, in accordance with the rule laid down in section 8 of the Pensions (Civil Service Family Benefits) Act.

(8) In the exercise of any powers conferred upon him by this section, the Governor-General shall act on the advice of the Public Service Commission.

20. Subject to the provisions of section 21 the Corporation may on the vesting day employ in its service, on such terms and conditions as the Corporation may determine, any person (other than an officer within the meaning of section 19) in the employment of the Government and serving in the Marketing Department immediately before the vesting day, and every person so employed by the Corporation shall thereupon cease to be employed by the Government.

Transfer of other employees to the Corporation.

21.—(1) Where any person who, having been employed by the Corporation in accordance with the provisions of section 20, retires from or dies in the service of the Corporation in circumstances in which, if his service with the Corporation had been service with the Government he or his dependants or legal personal representatives would have been eligible for the grant of a pension, gratuity or other allowance, the Corporation may, with the concurrence of the Minister, grant to him or his dependants or legal personal representatives a pension, gratuity or other allowance, not exceeding that for which he or his dependants or legal personal representatives would have been eligible if his service with the Corporation had been service with the Government.

Retirement, etc., of transferred employees.

(2) The Government shall pay to the Corporation in respect of any pension, gratuity or other allowance granted under subsection (1) a contribution equal to such proportion of the pension, gratuity or other allowance as the term

of service of the employee with the Corporation bears to the total term of his service with the Government and the Corporation.

(3) Nothing in this section shall be construed as preventing the Corporation from granting, in its discretion, any sum or sums to or in respect of any such employee by way of pension, gratuity or other allowance in addition to any pension, gratuity or other allowance granted under the provisions of subsection (1), but the Government shall not be required to make any contribution towards any such additional sum so granted.

SCHEDULE

(Section 3)

- | | |
|--|---|
| <p>1. The Corporation shall consist of such number of persons, not being less than three nor more than eleven, as the Minister may from time to time determine.</p> | <p>Constitution of the Corporation, 12/1976 S. 2.</p> |
| <p>2. The members of the Corporation shall be appointed by the Minister by instrument in writing and, subject to the provisions of this Schedule, shall hold office for such period not exceeding three years, as the Minister may direct, but shall be eligible for reappointment.</p> | <p>Appointment of members.</p> |
| <p>3. A person shall be disqualified for being appointed or being a member of the Corporation so long as he is a Senator or a Member of Parliament.</p> | <p>Disqualification.</p> |
| <p>4. The Minister shall appoint one of the members of the Corporation to be the chairman thereof.</p> | <p>Chairman.</p> |
| <p>5. The Minister may grant to any member of the Corporation leave of absence in respect of his duties as a member of the Corporation</p> | <p>Leave of absence.</p> |
| <p>6. If the chairman or any other member of the Corporation is absent or unable to act, the Minister may appoint any person to act in the place of the chairman or such other member.</p> | <p>Acting appointments.</p> |
| <p>7. (1) Any member of the Corporation, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument, such member shall cease to be a member of the Corporation.</p> | <p>Resignations.</p> |
| <p>(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 by the Minister of such instrument.</p> | |
| <p>8. The Minister may at any time revoke the appointment of any member of the Corporation if he thinks it expedient so to do.</p> | <p>Revocation of appointments.</p> |
| <p>9. The names of all members of the Corporation as first constituted and every change in the membership thereof shall be published in the <i>Gazette</i>.</p> | <p>Gazetting of appointments.</p> |
| <p>10. (1) The Corporation shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and, subject to the provisions of section 16 of this Act, dispose of land and other property of whatever kind.</p> | <p>Incorporation.</p> |
| <p>(2) The seal of the Corporation shall be kept in the custody of the chairman or the secretary and shall be affixed to instruments pursuant to a resolution of the Corporation in the presence of the chairman or any other member of the Corporation and the secretary.</p> | |

(3) The seal of the Corporation shall be authenticated by the signatures of the chairman or any other member authorized to act in that behalf and the secretary, and shall be officially and judicially noticed.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation may be signified under the hands of the chairman, or any other member authorized to act in that behalf, and the secretary of the Corporation.

- (5) The Corporation may sue and be sued in its corporate name and may for all purposes be described by such name.

Procedure
and
meetings.

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

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

(3) The chairman shall preside at all meetings of the Corporation at which he is present, and in case of his temporary absence the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting.

(4) The quorum of the Corporation shall be such number as the Minister may from time to time determine not being less than one-half the total members of the Corporation.

(5) The decisions of the Corporation shall be a majority of votes and, in addition to an original vote, the chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Corporation shall be kept and shall be confirmed as soon as practicable thereafter at a subsequent meeting.

(7) Subject to the foregoing provisions of this Schedule the Corporation may regulate its own proceedings.

(8) The validity of the proceedings of the Corporation shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Disclosure
of interest.

12. A member of the Corporation who is directly or indirectly interested in a contract made or proposed to be made by the Corporation—

- (a) shall disclose the nature of his interest at a meeting of the Corporation; and

(b) shall not take part in any deliberation or decision of the Corporation with respect to that contract.

13. (1) No member of the Corporation shall be personally liable for any act or default of the Corporation done or omitted to be done in good faith in the course of the operation of the Corporation. Protection of members.

(2) Where any member of the Corporation is exempt from liability by reason only of the provisions of this paragraph the Corporation shall be liable to the extent that it would be if the member was a servant or agent of the Corporation.

14. There shall be paid from the funds of the Corporation to the chairman and other members of the Corporation such remuneration, whether by way of honorarium, salary or fees, and such allowance as the Minister may determine. Remuneration of members.