

Fifth Session Third Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 16 of 1991

[L.S.]

AN ACT to provide for the establishment of the National
Agricultural Marketing and Development Corporation
and for matters incidental thereto.

[Assented to 16th August, 1991]

ENACTED by the Parliament of Trinidad and Tobago as **Enactment**
follows:—

1. This Act may be cited as the National Agricultural ^{Short title}
Marketing and Development Corporation Act, 1991.

PRELIMINARY

Interpretation

2. In this Act—

Chap. 68:01

“Agency” means the Central Marketing Agency established under the Central Marketing Agency Act and made defunct by virtue of section 32(1);

“agricultural produce” means ground provisions, livestock, fish, eggs and any farm produce or any foodstuffs found in the sea or cultivated above or beneath the soil;

“Corporation” means the National Agricultural Marketing and Development Corporation established under section 3;

“livestock” means any animals that are commonly reared for the purpose of food for human consumption and includes cattle, sheep, goats, pigs or poultry;

“Minister” means the Minister to whom responsibility for agriculture and food production is assigned;

“poultry” includes any fowl, chicken, turkey, duck, goose or other bird commonly reared for the purpose of food for human consumption;

“retail market” means a market whether established in pursuance of any written law or otherwise in which agricultural produce is offered for sale by retail.

PART I

ESTABLISHMENT OF THE CORPORATION

Establishment
and incorporation
of the Corporation

3. There is hereby established, as a body corporate, a corporation to be known as the National Agricultural Marketing and Development Corporation.

Constitution
of the Corporation

4. (1) The Corporation shall consist of nine members selected as follows:

(a) six members appointed by the President and having special qualifications or experience as follows:

- (i) one in business management;
- (ii) one in finance or management accounting;
- (iii) one in produce marketing and trade;
- (iv) one in food technology or agro-industry;
- (v) one in information technology; and
- (vi) one in agricultural production with special reference to small farming;

(b) a representative of—

- (i) the Ministry responsible for agriculture; and
- (ii) the Tobago House of Assembly; and

(c) the Chief Executive Officer who shall be an *ex officio* member of the Corporation.

(1A) Notwithstanding subsection (1), vacancies in the membership of the Corporation shall not affect its legal existence, unless its membership is reduced to less than five.

(2) The President shall from among the members of the Corporation appoint a Chairman and a Deputy Chairman.

(3) A member appointed under subsection (1)(a) or (b) shall, subject to subsection (4), hold office for such period not exceeding two years as the President shall specify at the time of appointment, but shall be eligible for reappointment.

(4) Any member may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause it to be forwarded to the Minister.

(5) The appointment of any person as a member of the Corporation and the termination of office of any such member whether by death, resignation, revocation, effluxion of time or otherwise, shall be notified in the *Gazette*.

(6) Each member shall make and subscribe an oath before a Justice of the Peace that he will faithfully, and to the best of his ability, discharge the trust and perform the duties devolving upon him as such member.

**Seal of the
Corporation
and service
of documents**

5. (1) The seal of the Corporation shall be kept in the custody of the Chairman, or the Deputy Chairman, or the Corporate Manager and may be affixed to instruments pursuant to a resolution of the Corporation and in the presence of the Chairman or the Deputy Chairman, and of one other member, and the Corporate Manager.

(2) The seal of the Corporation shall be authenticated by the signature of the Chairman, or the Deputy Chairman, and the Corporate Manager.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation shall be signified under the hand of the Chairman, or the Deputy Chairman, or the Corporate Manager.

(4) Service upon the Corporation of any notice, order or other document shall be effected by delivering the same or by sending it by registered post addressed to the Corporate Manager at the registered office of the Corporation.

**Procedure and
meetings of
the Corporation**

6. (1) The Corporation shall meet at least once per quarter and at such times as may be necessary or expedient for the transaction of business, and 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, within seven days of the receipt of a requisition in writing addressed to him by three or more members summon a special meeting to consider the matters contained in the requisition.

(3) Minutes in proper form shall be kept by the Corporate Manager and shall be confirmed as soon as practicable thereafter at a subsequent meeting and certified copies of the minutes when so confirmed shall be forwarded to the Minister within the prescribed period.

(4) The Corporation may co-opt any one or more persons to attend any particular meeting for the purpose of assisting or advising the Corporation, but no such co-opted person shall have any right to vote.

(5) Subject to this section, the Corporation has power to regulate its own proceedings.

7. (1) The corporation may appoint a committee (hereinafter called a "committee of the Corporation") to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act. Committees of the Corporation

(2) A committee of the Corporation shall consist of at least one member of the Corporation together with such other persons, whether members of the Corporation or not, whose assistance and advice the Corporation may desire.

(3) Where persons, not being members of the Corporation, are members of a committee of the Corporation, or where any person is co-opted under section 6(4), the Corporation may with the approval of the Minister by resolution declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Corporation.

(4) The Corporation may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Corporation may think fit.

8. (1) Subject to this Act, the Corporation may delegate to any member or committee of the Corporation the power and authority to carry out on its behalf such duties as the Corporation may determine. Power of Corporation to delegate

(2) In the discharge of its functions, the Corporation may arrange for the duties to be carried out either by the Corporation directly through its own officers, servants and employees, or indirectly through persons with whom the Corporation has entered into contract.

9. (1) The functions of the Corporation are to create, facilitate and maintain an environment conducive to the efficient marketing of agricultural produce and food products through the provision of marketing services and the stimulation of business investment in the agro-industrial sector of Trinidad and Tobago. Functions of the Corporation

(2) Without prejudice to the generality of subsection (1) the Corporation may—

- (a) facilitate and promote the effective and efficient marketing of agricultural produce and food products and advise on the importation of and the mechanisms available to enlarge the local and international market for such produce and products;
- (b) develop and provide information in respect of domestic and export markets in order to assist in the efficient organisation of production, storage and distribution of agricultural produce and food products in a manner that promotes entrepreneurial development;
- (c) establish and administer wholesale markets for agricultural produce and food products;
- (d) advise on policy formulation for the development and management of the retail marketing of agricultural produce and food products;
- (e) facilitate the promotion of agro-industrial development;
- (f) develop, administer and monitor a system of grades and standards aimed at improving the marketing of agricultural produce and food products;
- (g) take over relevant activities or functions previously discharged by the Agency;
- (h) lease any lands, buildings, facilities or equipment;
- (i) advise on price support measures and implement such price support measures as the Minister may approve; and
- (j) do all things necessary or incidental to the foregoing and generally carry out the provisions of this Act.

Declaration
of interest

10. (1) A member of the Corporation who is in any way, whether directly or indirectly, interested in a contract or a proposed contract with the Corporation, that is the subject of consideration by the Corporation shall declare the nature of his interest at the first meeting of the Corporation at which it is practicable for him to do so.

(2) A member of the Corporation shall not vote or participate in discussion on any question in respect of any contract or proposed contract, with the Corporation, in which he is in any way interested whether directly or indirectly.

(3) Any person who fails to comply with the provisions of subsection (1), is liable on summary conviction to a fine of one thousand five hundred dollars.

11. There shall be paid to each member of the Corporation in respect of his office such remuneration as the President may from time to time determine and to the holders of the offices of Chairman and Deputy Chairman such remuneration in addition to any remuneration which they may receive in respect of their offices as members of the Corporation as may be so determined.

Remuneration
of members of
Corporation

12. In the exercise of the powers and duties conferred and imposed on it by this Act, the Corporation shall comply with any special or general directions which may from time to time be given to it by the Minister.

Corporation to
comply with
directions of
Minister

PART II

STAFF

13. (1) Subject to section 14, the Corporation may with the approval of the Minister appoint—

Appointment of
officers and
other employees

(a) a Chief Executive Officer, who shall be responsible for carrying out the decisions of the Corporation; and

(b) a Deputy Chief Executive Officer,
on such terms and conditions of service as the Minister shall approve.

(2) Subject to section 14, the Corporation may, on such terms and conditions of service as it thinks fit, appoint a Corporate Manager and such other officers and employees as may be necessary for the efficient administration, management and performance of its functions.

14. (1) Subject to subsection (2), on the coming into force of the Act, all officers and members of staff of the Agency shall become officers and members of the Corporation

Conditions of
employment of
staff of the
Agency by the
Corporation

on terms and conditions enjoyed by them while in the employment of the Agency.

Chap. 23:52

(2) Where a post on the establishment of the Corporation is abolished in such a manner that subsection (3) is not applicable to the incumbent, he shall be granted a temporary pension in accordance with section 15(4) of the Pensions Act.

(3) The persons to whom subsection (1) refers shall within twenty-four months after this Act comes into force, exercise any of the following options—

(a) to remain on the staff of the Corporation on terms and conditions that are no less favourable than the terms and conditions enjoyed while in the service of the Agency;

(b) to transfer to the public service or the service of any statutory board or statutory authority with the approval of the appropriate Service Commission;

Act No. 19 of 1989

(c) to retire voluntarily on pension in accordance with the Pensions Act, if applicable, or on such terms and conditions as prescribed in the Second Schedule to The Voluntary Termination of Employment Act, 1989, if applicable, or on such terms and conditions as are agreed upon between the person exercising this option or his recognised bargaining body and the Chief Personnel Officer.

(4) Where a person does not exercise any of the options listed in subsection (3)(a) to (c), he shall be deemed to have retired voluntarily in accordance with subsection (3)(c).

Pension rights

15. (1) The pension rights which would have accrued to the officers and staff of the Agency as at the date of the coming into force of this Act, shall be preserved to them and shall continue to accrue until the establishment of a pension scheme under subsection (2).

(2) The Corporation shall, within two years of its coming into being, establish a pension scheme by rules confirmed by the Minister, which shall be no less favourable than the scheme established for the benefit of officers and staff of the Agency.

(3) Where an employee of the Corporation dies or retires on or after the date of the coming into force of this Act and before the establishment of the pension scheme, the Corporation shall be responsible for payment of superannuation or death benefits accruing to that employee.

(4) The basis for the accrual and payment of superannuation or death benefits shall be the same as that which was applicable to the employee while he was in the employment of the Agency.

16. (1) The Corporation may, with the consent of the officer concerned and the appropriate Service Commission or the relevant body, authorise the transfer of an officer from the service of the Corporation to the service of the Government, the University of the West Indies or such other body as the Corporation may think fit, or *vice versa*, on such terms and conditions of service, including remuneration and pension rights, as may be agreed upon by the officer concerned and the body to which he is to be transferred. Transfer of staff

(2) A transfer under subsection (1) may be permanent or on secondment not exceeding five years.

(3) An officer shall, upon transfer under subsection (1), have preserved to him his superannuation or pension rights accruing at the time of the transfer.

PART III

TRANSFER OF PROPERTY RIGHTS AND LIABILITIES AND FINANCIAL PROVISIONS

17. (1) On the commencement of this Act, all lands, buildings, installations, equipment and all other forms of property, whether real or personal, and all interest therein of whatsoever nature belonging to and used exclusively by the Agency shall become vested in the Corporation. Vesting of certain
property rights

(2) If any question arises under subsection (1) whether any land, building, installation or equipment was used exclusively for the purposes of the Agency, a certificate under the hand of the Minister shall be conclusive.

Pending legal
proceedings, debts
and liabilities, etc.

18. (1) In any legal proceedings to which immediately before the commencement of this Act the Agency was a party and which proceedings have reference to the powers and duties transferred by this Act, the Corporation shall be substituted for the Agency, and such proceedings shall not abate by reason of the substitution.

(2) All debts and liabilities standing in the books of the Agency shall be assumed by the Corporation on the commencement of this Act.

(3) All work, capital as well as otherwise, negotiations of any kind and anything whatsoever commenced by the Agency and incomplete at the date of the commencement of this Act shall be continued and completed by the Corporation just as if there had been no transfer from one body to another.

Funds of the
Corporation

19. The funds of the Corporation shall consist of—

- (a) such sums as at the commencement of this Act stand to the credit of the Agency;
- (b) such sums as may be advanced by the Treasury in pursuance of the provisions of section 35 of the Exchequer and Audit Act;
- (c) moneys earned or arising from any property, investments, mortgages or debentures acquired by or vested in the Corporation;
- (d) sums borrowed by the Corporation for the purpose of meeting any of its obligations or discharging its functions;
- (e) all fees derived from services or facilities owned by the Corporation; and
- (f) all other sums or property which may in any manner become payable to or vested in the Corporation in respect of any matter incidental to their powers and duties.

Chap. 69:01

Power to borrow
or raise capital

20. (1) The Corporation may, from time to time, with the approval of the President, borrow, secure or raise money by the issue of debentures or debenture stock, or other security, for all or any of the following purposes—

- (a) the fulfilling of the functions of the Corporation under this Act;

- (b) the provision of capital for the expansion of and additions to its fixed assets;
- (c) the redemption of any debenture or debenture stock or other security that the Corporation is required or entitled to redeem; and
- (d) any other expenditures properly chargeable to capital account.

(2) The Corporation may, with the approval of the Minister, borrow by way of overdraft or otherwise for periods not exceeding one year, such sums as the Corporation may require for meeting its obligations and discharging its functions under this Act.

21. (1) The Corporation may borrow by way of advances from the Government such sums as may be necessary for carrying out its functions under this Act, but the Minister shall cause a statement of such advances to be laid in the House of Representatives.

Power of the Corporation to borrow from Government

(2) For the purpose of making approved advances to the Corporation under this section, the Minister may authorise advances out of the proceeds of any loan raised for the purpose or out of the reserve funds, revenues or surplus balances of Trinidad and Tobago.

(3) Pending the raising of a loan referred to in subsection (2), the Minister by warrant under his hand may authorise the Comptroller of Accounts to make advances out of the Consolidated Fund to the Corporation in such sums and on such terms and conditions as the Minister may think fit for the purposes authorised by this Act.

(4) The repayment of advances under this section and the payment of interest thereon shall be made by the Corporation in like manner and on like conditions as other borrowings by the Corporation, subject to any special terms and conditions which may be imposed by the Minister.

(5) In this section and in sections 22 and 23, "Minister" means the Minister to whom responsibility for finance is assigned.

22. (1) The revenue of the Corporation for any financial year shall be applied in defraying the following charges—

Application of revenue

- (a) remuneration, fees and allowances of the members of the Corporation or of any committee thereof;
- (b) salaries, fees, remuneration and gratuities, including payments for the maintenance of the Pension Fund authorised by this Act, of the officers, agents and employees, and technical and other advisers, of the Corporation;
- (c) working and establishment expenses, and expenditure on, or provision for, the maintenance of the property and of any of the works of the Corporation and the insurance of the same and the discharge of the functions of the Corporation properly chargeable to revenue account;
- (d) interest on any debenture and debenture stock or other security issued, and on any loan raised by the Corporation;
- (e) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provisions for the redemption of debentures or debenture stock or other security or the repayment of other borrowed money;
- (f) such sums as may be appropriate to set aside in respect of depreciation on the property of the Corporation having regard to the amount set aside out of the revenue under paragraph (e);
- (g) any other expenditure authorised by the Corporation and properly chargeable to revenue account.

(2) The balance of the revenue of the Corporation shall be applied to the creation of reserve funds to finance future modernisation and expansion and for such other purposes as the Minister may approve.

Authorised
investments

23. Funds of the Corporation not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Corporation may be invested from time to time in securities approved by the Minister.

24. (1) All decisions, orders, rules and regulations relating to the financial operations of the Corporation and authorised by this Act shall be made by resolutions of the Corporation at a meeting thereof and shall be recorded in the minutes of the Corporation. Accounting of Corporation

(2) The Corporation shall keep proper accounts and other records in respect of its operations, and shall cause to be prepared a statement in respect of each financial year.

(3) The accounts of the Corporation shall be audited by the Auditor General or by such person publicly carrying on the profession of accountant as the Auditor General may appoint.

(4) The Corporation shall, before the commencement of each financial year, submit to the Minister for his approval a copy of its budget relating to capital expenditure and the financing thereof, and a copy of its income and expenditure budget, in relation to such year and the Minister shall cause copies of such budgets to be laid on the table of each House of Parliament.

(5) After the end of each financial year of the Corporation, the Corporation shall, as soon as the accounts of the Corporation have been audited, cause a copy of the statement of accounts to be transmitted to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Corporation and the Minister shall cause a copy of every statement and report to be laid on the table of each House of Parliament.

25. (1) All moneys of the Corporation accruing from its operations under this Act shall be paid into a bank appointed by resolution of the Corporation, and such moneys shall as far as practicable be paid into the bank from day to day, except such sum as the Corporate Manager may be authorised by rules made under section 26 to retain in his hands to meet petty disbursements for immediate payments. Cash deposits and payments

(2) All payments out of the funds of the Corporation, except petty disbursements not exceeding a sum to be fixed by rules made under section 26, shall be made by the Corporate Manager or on his behalf by any other officer appointed by the Corporation in accordance with any such rules.

(3) Cheques against any banking account required to be kept or withdrawals from any savings bank account shall be signed by the Corporate Manager and countersigned by the Chairman or any member appointed by resolution of the Corporation for the purpose, and a copy of any such resolution shall be certified by the Chairman and forwarded to the bank concerned.

Rules

26. The Corporation shall by resolution make rules in respect of the following matters—

- (a) the manner in which, and the officers by whom, payments are to be approved;
- (b) the bank into which the moneys of the Corporation are to be paid, the title of any account with any such bank, and the transfer of one fund from one account to another;
- (c) the appointment of a member or an officer of the Corporation to countersign cheques on behalf of the Chairman or in the absence of the Chairman;
- (d) the sum to be retained by the Corporate Manager to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment;
- (e) the method to be adopted in making payments out of the funds of the Corporation; and
- (f) generally as to all matters necessary for the proper keeping and control of the accounts and books and the control of the finance of the Corporation.

Annual report

27. (1) The Corporation shall, as soon as practicable after the end of each financial year, make and transmit to the Minister a report dealing generally with the activities of the Corporation during the preceding financial year and containing such information relating to the operations and policy of the Corporation as the Minister may from time to time direct.

(2) The Minister shall cause a copy of every such report to be laid on the table of each House of Parliament.

28. The Corporation shall, as soon as practicable after the end of each financial year, submit a three-year business plan to the Minister for his approval. Three-year business plan

29. Notwithstanding section 32 of the Exchequer and Audit Act, sections 37 and 38 of that Act do not apply to the Corporation. Non-application of Chap. 69:01

30. (1) Notwithstanding anything contained in any other written law, all plant, machinery, appliances, apparatus, equipment and materials of every kind whatsoever imported by the Corporation for the purpose of carrying out its functions under this Act shall be free of all customs duty whatsoever. Exemption from customs duty and income tax

(2) Notwithstanding anything contained in the Income Tax Act, the income of the Corporation shall be wholly exempt from payment of income tax. Chap. 75:01

PART IV

GENERAL AND REGULATIONS

31. (1) The Corporation may, with the approval of the Minister, make regulations for the carrying out of the purposes of the Act, and without limiting the generality of the foregoing may make regulations— Regulations

- (a) establishing marketing schemes for agricultural produce and food products;
- (b) prohibiting the sale of agricultural produce by retail within a specified distance of a Central Wholesale Market;
- (c) establishing Central Wholesale Markets and prescribing the articles of agricultural produce to be sold therein;
- (d) fixing in respect of each category of agricultural produce wholesale and retail units;
- (e) determining the basis on which commissions are to be payable to the Corporation;
- (f) providing for the licensing and registration of producers and wholesale buyers of agricultural produce;

- (g) prescribing the standard to which items of agricultural produce must conform in order to be deemed to be marketable;
- (h) requiring registered producers to keep records and, where required, to furnish returns of the quantity and price of all agricultural produce sold by them.

(2) Regulations made under subsection (1) may provide for the imposition of a fine of one thousand five hundred dollars for the contravention of any provision thereof.

Repeal and
saving.
Chap. 68:01

32. (1) The Central Marketing Agency Act is repealed.

(2) Notwithstanding subsection (1), the Registration of Producers of Agricultural Produce Regulations, the Poultry Industry Regulations and the Central Marketing Agency (Wholesale Marketing) Regulations (hereinafter collectively referred to as "the existing regulations") made under section 35 of the now defunct Central Marketing Agency Act shall continue in force as though made under section 31 of this Act.

Construction of
existing regulations

33. A reference in the existing regulations to—

- (a) the Central Marketing Agency or the Agency shall be construed and have effect as a reference to the Corporation;
- (b) the General Manager shall be construed and have effect as a reference to the Chief Executive Officer.

Passed in the House of Representatives this 10th day of May, 1991.

N. COX
Acting Clerk of the House

Passed in the Senate this 9th day of July, 1991.

R. CUMBERBATCH
Acting Clerk of the Senate

Senate amendments agreed to by the House of
Representatives this 12th day of July, 1991.

N. COX
Acting Clerk of the House