

CHAPTER 18:13

FRUIT MARKETING ACT

Act 50/1966, 22/2001 (s. 4).

ARRANGEMENT OF SECTIONS

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AN ACT to provide for the establishment and use of a national mark in relation to the marketing of specified types of fruit grown in Zimbabwe; to prescribe the requisite standards and requirements for the export of specified types of fruit grown in Zimbabwe; and for matters incidental to the foregoing.

[Date of commencement: 10th October, 1966.]

1 Short title

This Act may be cited as the Fruit Marketing Act [*Chapter 18:13*].

2 Interpretation

In this Act—

“fruit” means any fruit declared in terms of section *three* to be fruit for the purposes of this Act;

“grower” means a person who himself or by means of agents or employees grows fruit;

“Minister” means the Minister of Agriculture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“national mark”, in relation to any type of fruit, means the mark or emblem prescribed as the national mark in respect of that type of fruit;

“prescribed requirements”, in relation to a container of fruit, means the prescribed requirements as to the size, construction and marking or labelling of the container;

“registered” means registered in terms of this Act;

“requisite standards”, in relation to any type or variety of fruit, means the prescribed standards as to the grade, quality and packing of that type or variety of fruit;

“Secretary” means the Secretary of the Ministry for which the Minister is responsible.

3 Declaration of fruit

The Minister may, by order in the *Gazette*, declare any fruit to be fruit for the purposes of this Act.

4 Use of national mark

(1) No person shall affix or cause or permit to be affixed to any container containing fruit or otherwise use in trade the national mark or any mark or emblem so nearly resembling it as to be likely to deceive or cause confusion in the course of trade unless such use is permitted in terms of this Act.

(2) A registered grower may, subject to this Act, use the national mark on any container of or in respect of fruit of a type for which he is registered which complies with the requisite standards.

(3) A person who sells fruit may, subject to this Act, use the national mark on any container of or in respect of fruit which has been grown by a registered grower and consigned by the registered grower in a container bearing the national mark.

5 Registration of growers

(1) An application for registration in terms of this Act by a grower shall be made to the Secretary in the form and manner prescribed.

(2) Subject to subsection (1) of section *six*, the Secretary shall register any grower who makes application in terms of subsection (1) for the type or types of fruit specified by the grower in his application.

(3) The registration of a grower shall be valid for such period as may be prescribed.

6 Refusal or cancellation of registration

(1) The Secretary may refuse to register an applicant for registration if—

- (a) he believes on reasonable grounds that that person will be unable to maintain the requisite standards for the type of fruit in respect of which he wishes to be registered, or
- (b) the applicant has previously been registered and his registration was cancelled in terms of subparagraph (i) of paragraph (a) or paragraph (b) of subsection (2).

(2) The Secretary—

- (a) shall cancel the registration of a registered grower who—
 - (i) fails or is unable to maintain the requisite standards for the type of fruit in respect of which he is registered; or
 - (ii) applies to the Secretary for the cancellation of his registration;
- (b) may cancel the registration of a registered grower who is convicted of an offence in terms of this Act.

(3) An applicant for registration whose application is refused by the Secretary or a registered grower whose registration is cancelled shall have a right of appeal to the Minister, whose decision shall be final.

7 Export of fruit

(1) Subject to subsection (2), no person shall export any fruit unless—

- (a) that fruit complies with the requisite standards; and
- (b) the container of that fruit complies with the prescribed requirements and bears the national mark.

(2) The Minister may, by notice in writing, exempt any person from compliance with subsection (1) and, in so doing, may fix conditions subject to which the exemption is granted.

8 Inspectors

(1) Subject to the law relating to the Public Service, the Minister may, for the purposes of this Act, appoint persons as inspectors.

(2) The functions of an inspector shall be as prescribed.

(3) Where an inspector finds that any container of fruit—

- (a) bears the national mark; and
- (b) does not comply with the prescribed requirements or contains fruit which, in the opinion of that inspector, did not at the time it was packed comply with the requisite standards for the type, variety and grade of fruit which the container purports to contain;

he shall deface the national mark on that container with a prescribed stamp:

Provided that—

- (i) if there are two or more grades prescribed for the type and variety of fruit contained in the container and such fruit complies with the requisite standards for a grade which is lower than that marked on the container, the inspector shall deface the marking of the grade on the container and mark the container with an indication of the lower grade instead of defacing the national mark;
- (ii) this subsection shall not apply to fruit in respect of which an exemption has been granted in terms of subsection (2) of section *seven* if the conditions fixed in terms of that subsection are complied with.

9 Printing and sale of copies of national mark

(1) The Minister may prescribe that a specified person or association shall have the sole authority to produce and sell or cause or permit to be produced and sold copies of a national mark in relation to any type of fruit.

(2) The charges which may be made by a specified person or association for copies of a national mark sold in terms of subsection (1) shall be as prescribed.

(3) The specified person or association shall establish a fund into which all moneys received in respect of the sale of copies of the national mark shall be paid.

(4) Moneys in the fund established in terms of subsection (3) shall be used solely for the following purposes—

- (a) the production and sale of copies of the national mark for the production and sale of which the specified person or association has been given the sole authority in terms of subsection (1);
- (b) advertising and promoting the sale of fruit identified by the national mark referred to in paragraph (a);
- (c) such other purposes as may be approved by the Minister.

(5) No person shall produce or cause to be produced copies of a national mark unless on the instructions, request or permission of the specified person or association.

10 Keeping of accounts, etc.

(1) The specified person or association referred to in section *nine* shall keep proper accounts showing the manner in which the moneys paid to it have been expended.

(2) The accounts kept in terms of subsection (1) shall be audited annually by an auditor approved by the Minister.

(3) The auditor referred to in subsection (2) shall report to the Minister whether the moneys paid to the specified person or association have been expended in accordance with subsection (4) of section *nine*.

(4) If at any time it appears to the Minister that the specified person or association has expended moneys contrary to subsection (4) of section *nine*, he may—

- (a) require the person or persons responsible for such expenditure to repay any amounts so expended into the fund established in terms of subsection (3) of section *nine*; and it shall be the duty of such person or persons to comply with such requirement; and additionally, or alternatively
- (b) withdraw the authority issued in terms of section *nine*.

11 Offences and penalties

Any person who—

- (a) obstructs an inspector in the performance of his functions conferred by or in terms of any regulations or, on being required to do so, does not produce to an inspector for inspection fruit or any books or records relating thereto which are in his possession or under his control; or
 - (b) sells or displays fruit in a container bearing the national mark, if such fruit was not—
 - (i) grown by a registered grower; and
 - (ii) consigned by the registered grower in a container bearing the national mark;or
 - (c) uses the national mark in connection with the sale or advertisement for sale of any fruit which was not—
 - (i) grown by a registered grower; and
 - (ii) consigned by the registered grower in bearing the national mark; or
 - (d) contravenes any provision of this Act with which it is his duty to comply,
- shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

12 Regulatory powers of Minister

(1) The Minister may by regulation prescribe all matters which by this Act are required or are permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) The Minister may, in the exercise of the powers conferred upon him by subsection (1), provide for—

- (a) the grade, quality and packaging of fruit in respect of which the national mark may be used;
- (b) inspection by inspectors of fruit and land or premises where fruit is grown, handled, graded, treated, sold, stored or dealt in;
- (c) the seizure by an inspector who shall issue a receipt therefor of books and documents and fruit which, in the opinion of the inspector, may afford evidence of a contravention of this Act, and the doing of such other things as may appear to the inspector to be necessary for ascertaining whether compliance has been made with this Act;
- (d) the regulation or control of the use of the national mark by registered growers and persons dealing in fruit produced by registered growers;
- (e) the size, construction and marking or labelling of containers of fruit which bear the national mark.