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CHAPTER 115

COMMODITIES BOARD

Acts 16 of 1973, 5 of 1975, 12 of 1976, 22 of 1976, 10 of 1977, 25 of 1978, 5 of 1979, 3 of 1982, 2 of 1983, 16 of 1987

AN ACT TO ESTABLISH A COMMODITIES BOARD AND TO REGULATE ITS FUNCTIONS, POWERS, OBJECTS AND AUTHORITIES AND MATTERS RELATIVE THERETO

Commence-
ment.

[1st January 1974]

PART I.—PRELIMINARY

- Short title. 1. This Act may be cited as The Commodities Board Act.
- Interpretation. 2. In this Act, unless the context otherwise requires—
- “Board” means the Commodities Board established under this Act;
- “commodity” shall have the meaning assigned to it by section 3 of this Act;
- “Director” means the Director of Commodities appointed in terms of this Act;
- “producer” means any person engaged in producing a commodity and also holders of tax allotments, hereditary estates and leases. (*Amended by Act 10 of 1977.*)

PART II.—COMMODITIES

3. The King in Council may by Order-in-Council declare to be a commodity under and for the purposes of this Act any produce or product of agricultural or other rural occupations, and any commercial product of the land or of the sea and any article of commerce prepared or manufactured from any of these. Commodity.

4. The products listed in the First Schedule to this Act are hereby declared to be commodities under and for the purposes of this Act. Commodities schedule.

PART III.—COMMODITIES BOARD

5. (1) There shall be a Commodities Board which shall be charged with the general administration of this Act. Commodities Board.

(2) The Commodities Board shall be a body corporate with perpetual succession and a common seal, with power to acquire, hold and dispose of real and personal property, and may sue and be sued in all matters and may do and suffer all things that a body corporate may lawfully do and suffer.

(3) All Courts, Judges and persons acting judicially shall take judicial notice of the seal of the Commodities Board affixed to any document or notice and shall deem that it was duly fixed.

6. (1) The Commodities Board shall consist of not more than nineteen members and shall consist of— Composition of Board.

- (a) The Prime Minister;
- (b) the Minister of Finance;
- (c) the Minister of Agriculture;
- (d) the Minister of Labour, Commerce and Industries;
- (e) the Chief Secretary and Secretary to Cabinet;
- (f) the Governor of Ha'apai;
- (g) the Governor of Vava'u;

who shall be ex officio members representing Government, and

- (h) the Director;
- (i) the Director of Agriculture;

who shall both be ex officio technical members; and

- (j) two representatives of the Nobles who shall be elected in accordance with section 7 of this Act; and
- (k) seven representatives of the growers, who shall be elected in accordance with the provisions of section 7 of this Act, and who shall comprise the following:—

- (i) two representatives of the producers of Tongatapu;
- (ii) one representative of the producers of Ha'apai;

- (iii) one representative of the producers of Vava'u;
- (iv) one representative of the producers of 'Eua;
- (v) one representative of the producers of Niuatoputapu;
- (vi) one representative of the producers of Niuafo'ou. (*Amended by Acts 12 of 1976, 5 of 1979, 3 of 1982.*)

(2) The Prime Minister shall hold the office of Chairman of the Board.

(3) Such annual salary as the Board shall determine shall be payable to all elected members and to such co-opted members as the Board shall determine. No ex officio members shall be entitled to receive such annual salary. Such travelling and other expenses as the Board shall determine shall be payable to all members.

Election of Representatives of the Nobles and of the Producers.

7. (1) Representatives of the Nobles shall be elected for the period and in the manner set out in the Second Schedule to this Act.

(2) Representatives of the Producers shall be elected for the period and in the manner set out in the Third Schedule to this Act.

(3) The Board shall be responsible for the cost of all elections held under this Act.

Termination of Appointment.

8. If a member of the Board becomes permanently incapable of performing his duties, or becomes bankrupt, or compounds with his creditors, or resigns his office by writing addressed to the Chairman or is absent, except on leave granted by the Chairman, from all meetings of the Board held during 3 consecutive months, or is convicted of an indictable offence, or is found guilty upon enquiry of evading or misapplying the provisions of this Act, he shall automatically cease to be a Member of the Board.

Director.

9. (1) There shall be a Director of Commodities who shall be appointed and hold office as provided by this Act.

(2) The Director shall be appointed by the Board, and shall serve as the Chief Executive of the Board. He shall have the powers set out in the Fourth Schedule to this Act.

(3) Subject to the provisions of this section the Director shall be paid such salary and allowances as the Board determines. (*Amended by Act 25 of 1978.*)

Termination of Appointment of Director.

10. (1) If the Director becomes permanently incapable of performing his duties, or becomes bankrupt, or compounds with his creditors, or makes an assignment (other than an assignment to the Board or to Government) of his salary for their benefit, the Board shall terminate his appointment.

(2) The appointment of the Director may be terminated by the giving of 3 months' notice in writing by the Board.

11. (1) The Board may from time to time appoint all such other officers and servants as it thinks necessary to assist in the execution of the provisions of this Act, and may pay such persons such salaries and allowances as it thinks fit. All such persons shall serve in accordance with the regulations laid down by the Board pertaining to the carrying out of their duties. One person may hold 2 or more of such offices.

Appointment
of staff.

(2) During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause, the duties and powers of such officer may be performed and exercised by an acting officer appointed by the Director.

PART IV.—POWERS AND DUTIES

12. The objects, functions, powers and authorities of the Board shall be—

Objects,
functions,
powers and
authorities of
the Board.

- (a) to acquire by lease any land, buildings, easements or other property, rights or privileges which it thinks necessary for the purposes of this Act;
- (b) to acquire by lease or purchase any land, buildings, easements or other property, rights or privileges outside the Kingdom;
- (c) to sell, exchange, lease, dispose of, turn to account or otherwise deal with any property rights or privileges of the Board;
- (d) to strive by all means in its power including the employment and/or co-opting of agents to improve or maintain the quality, standard or packing of any commodity and obtain on behalf of the producers of that commodity the fairest return for same obtainable under the existing conditions.
- (e) to manufacture, control, or sell at the best obtainable price, or arrange for the manufacture, control, or sale of any commodity vested in or delivered, or to be delivered to it, and do all acts, matters and things necessary or expedient in that behalf accordingly;
- (f) to establish grades, standards, qualities, or pack of any commodity and determine the prices which will be paid to producers for those amounts of such commodity which reach such grades, standards, qualities, or pack of which the Board shall be the sole judge;
- (g) as far as is practicable or required to provide any commodity for consumption or use in the Kingdom and for its supply during periods of shortage to those places within the Kingdom wherein a shortage is experienced;
- (h) to make such arrangements as it deems necessary with regard to sales of any commodity for export or for consignment to other countries or states; for the purpose of this provision a

sale of the commodity for overseas ships' stores shall be deemed to be a sale for export;

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- (i) notwithstanding anything in the Land Act or in any other Act or law or rule or process of law to the contrary, to arrange with a producer or co-operative society producing any commodity outside of the area controlled by the Board for the delivery of such commodity so produced to the Board for such period and on such terms and conditions as the Board may think fit. Subject to such arrangement, the Board, and the producer shall mutually have the same rights, duties, powers and obligations, in reference to the commodity so arranged to be delivered as would be applicable if such commodity were produced within the area controlled by the Board;
- (j) to grant financial accommodation to producers or to co-operative societies for the purpose of facilitating the improving of the quality or the increasing of the quantity of any commodity to be delivered to the Board;
- (k) to enter into contracts with the Government or any person or persons or other body for the purpose of building or constructing any type of building or buildings and engineering works of any sort whatsoever;
- (l) to enter into contracts with any person or persons or other body arranging for that person or persons or other body to build or construct any type of building or buildings and engineering works of any sort whatsoever;
- (m) to enter into contracts for, and to engage in, repair and maintenance work in relation to all manner of work which the Board is authorized under this Act to perform;
- (n) to conduct general business and to buy and sell general merchandise and to charge for services;
- (o) to establish agencies and subsidiary bodies and to appoint agents to manage and carry on any one or all of the objects, functions, powers and authorities of the Board, and to charge and pay commissions;
- (p) to purchase, own and control ships and to engage in shipping trade;
- (q) to establish and carry on engineering works and factories;
- (r) to establish and/or contribute to pension, superannuation or other schemes for the benefit of employees of the Board;
- (s) to engage in or provide finance for the pursuit of research into any of the activities of the Board as authorised by this Act;
- (t) to foster and enter into any new enterprises;
- (u) to grant scholarships for study;

- (v) to endeavour by all means in its power to develop existing and new industries along sound lines and generally to promote the welfare of the producers and their dependants;
- (w) to advise upon all matters pertaining to the furtherance of the interests of producers;
- (x) to grant financial accommodation, or grants in aid, to any co-operative society or individual producer or person or persons or any other body for the purpose of developing rural or other industries or for any other purpose covered by this Act;
- (y) to insure against such contingencies as the Board may think fit, including power to take out life assurance in respect of any Member, the Director or any Officer;
- (z) to grant licences upon such terms as the Board may think fit to any co-operative society or grower or producer or person or persons to enable them to dispose of any commodity notwithstanding the terms of this Act;
- (aa) to invest in such securities or business ventures as the Board in its discretion may from time to time determine;
- (bb) to pursue such other objects, functions, powers and authorities as the Board may from time to time determine.

13. (1) Save as hereinafter prescribed, all the commodity shall be delivered by the producers thereof to the Board or its authorized agents within such times, and at such places, and in such manner as the Board may fix, or as may be prescribed. Any person who, save as hereinafter prescribed, sells or delivers any of the commodity to or buys or receives any of the commodity from any person or persons or any organisation other than the Board, shall be liable upon conviction to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both. (*Amended by Act 16 of 1987.*)

Compulsory
delivery of
commodity
to Board.

(2) Notwithstanding anything in the Land Act or in any other Act or law or rule of process of law to the contrary, it shall be competent for a producer to contract with the Board for future deliveries of a commodity which he has in course of production or which he may later produce.

Overriding
clause.
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14. (1) The following are hereby exempted from the operation of section 13:—

Exemptions.

- (a) sales of the commodity direct to local consumers or to retail vendors;
- (b) such portion of the commodity as the producer may require for his own use or as seed or for food for his family or his livestock.

(2) The Board may, at its sole discretion, issue a licence to any producer exempting him from the provisions of section 13, and such licence may specify such terms and conditions as the Board may deem fit.

Delivery.

15. The tendering of the commodity by any producer, or producers' authorized agent to an authorized agent of the Board for acceptance of delivery shall be *prima facie* evidence of an intention to deliver the tendered commodity to the Board to be disposed of by the Board in accordance with this Act.

Seller's rights.

16. Save as hereinafter prescribed the Board shall not refuse to accept from any producer any of the commodity which is of the prescribed grade, quality, standard, or pack, provided that the commodity is delivered in accordance with this Act within such reasonable time as shall be fixed by the Board. It shall not, however, be incumbent upon the Board to accept any amount of the commodity which is not of the prescribed grade, quality, standard, or pack, of which the Board or its authorized agent shall be the sole judge. Furthermore the Board may suspend for any period not exceeding 6 months any further acceptances of the commodity from any person or society who, after reasonable warning from the Board, persists in producing or delivering the commodity at an inferior grade or pack, as the case may be, of which the Board, or its authorized agent, shall be the sole judge.

Requirements of Board.

17. Should for any reason the commodity requirements of the Board be restricted, the Board may from time to time assign a quota or proportion of its requirements to any producer or society; in such case the Board shall not be bound to accept any amount of the commodity over and above the quota. The Board shall be the sole judge of its requirements.

Payments to producers.

18. (1) Subject to this Act, the Board shall, out of the proceeds of the commodity disposed of by the Board under this Act, make payments to each producer of the commodity delivered to the Board, in respect of the commodity delivered by him, on the basis of the net proceeds of the sale of all the commodity of the same grade, standard, quality or pack delivered to and sold by the Board during or covering such periods as may be prescribed and the proportion of such commodity so delivered by such producer during each such period.

(2) Notwithstanding the terms of subsection (1) of this section the Board may, at its own discretion and with the agreement of the producer of the commodity delivered to the Board, arrange to make payments calculated on a basis or at a rate different from that specified in subsection (1) of this section.

(3) For the purposes of this section "net proceeds of the sale" shall be the amount obtained from the sale of the commodity after all administration, marketing, depreciation and export charges have been met and an amount to be decided by the Board in its sole discretion has been set aside for the reserve.

19. For the purpose of ascertaining the net price to be paid to the producers of the commodity delivered to the Board, and generally for the purposes of this Act, the Board's decision as to the grade, quality, standard, or pack of such commodity, the method of determining the dockages or deductions, cost of freight from trucking point to customary shipping port, and other charges, all expenditure incurred in and about the marketing of the commodity, and generally the method of the determining of and actually what is the net price, shall be final.

Decision as to quality etc.

PART V.—MEETINGS AND PROCEDURE AT MEETINGS

20. The Board shall hold an Annual General Meeting once in each year. The Secretary shall give not less than 28 days' notice in writing to each member of the Board of the time and place appointed for such Annual General Meeting and members shall attend without further notice.

Annual General Meeting.

21. (1) The Board shall hold Ordinary Meetings at such other times and places as the Board determines or as the Chairman or Deputy Chairman direct, but at least one such Ordinary Meeting shall normally be held in every 3 months. (*Amended by Act 25 of 1978.*)

Ordinary Meetings.

(2) The Secretary shall give not less than 4 days' notice in writing to each member of the Board of the time and place appointed for each Ordinary Meeting and members shall attend such Ordinary Meetings without further notice.

22. (1) The Board may hold Special Meetings, and the Chairman or any 3 or more of the members may call a special meeting by notification to the Secretary of their desire to do so.

Special Meetings.

(2) The Secretary shall give not less than 4 days' notice in writing of any such Special Meeting, and no Special Meeting shall be held unless 4 days' notice in writing thereof and of the business to be transacted thereat has been given to members, and no business shall be transacted at a Special Meeting unless notice thereof has been so given.

23. Any Ordinary Meeting or Special Meeting or Annual General Meeting of the Board may be adjourned to another day and notice of such adjourned Meeting shall be given to each member.

Adjournment of Meeting.

Quorum and procedures.

- 24.** (1) A quorum of the Board shall consist of:—
- (a) the member presiding at the meeting;
 - (b) the Director, excepting when leave of absence has been approved by the Chairman or Deputy Chairman;
 - (c) not less than 4 other members, of whom at least 2 shall be elected representatives of the producers and at least 2 shall be ex officio members.

(2) The Board shall control its own procedures and make its own regulations for the conduct of its meetings in so far as these are not laid down in this Act.

Chairman to have a deliberative Vote.

- 25.** At any meeting of the Board the Chairman of the meeting shall have a deliberative vote, and, in the event of the votes being equal, a second or casting vote.

Majority to decide.

- 26.** (1) All acts of the Board and all questions coming or arising before the Board may be done and decided by the majority of such members as are present and vote at a duly constituted meeting held in pursuance of this Act.

(2) Every question coming before the Board shall be decided by open voting.

Revocation or alteration of resolutions.

- 27.** Any resolution of the Board may be revoked or altered at the same meeting by the unanimous vote of the members present when it was passed, or by a resolution passed at a subsequent meeting of the Board.

Minutes to be kept by Secretary.

- 28.** (1) The Secretary shall keep the minutes of the proceedings of the Board in a book, in which he shall enter the names of the members attending each meeting and every resolution, order, or other proceeding of the Board, and any other matter directed by the Board to be entered in the minutes.

(2) The minutes of the proceedings of every meeting shall be read at the next ordinary meeting succeeding, and, if approved by the Board or when amended as directed by the members, shall be signed by the Chairman of such succeeding meeting.

(3) The minute book of the Board shall be kept by the Secretary and shall be open to inspection during all office hours by any member of the Board.

PART VI.—FINANCE

Transfer of assets.

- 29.** Upon the entry into force of this Act, there shall be transferred to the possession of the Board all assets then vested in any Commodity Board established in terms of the Agricultural Organisation Act.

30. Upon the entry into force of this Act, there shall be transferred to the Board all outstanding current liabilities incurred by any Commodity Board established in terms of the Agricultural Organisation Act and the Board shall accept responsibility for the discharge of all such liabilities.

Transfer of liabilities.

31. The Board may deduct from the gross proceeds of sales of any commodity such percentage as the Board may from time to time determine. The monies so obtained may be used in connection with the conduct of any part of the Board's business in such manner as the Board may deem fit.

Power to deduct percentage and raise levies.

32. (1) The Board may, with the approval of His Majesty in Council, borrow from time to time such sums as may be necessary for the conduct of its business.

Power to borrow.

(2) Such sums shall be borrowed in the manner prescribed or directed by His Majesty in Council.

33. (1) The Board shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums received and paid by the Board, and of the several purposes for which such sums were received and paid.

Proper Books of Account to be kept.

(2) Such books shall at all reasonable times be open for inspection by any Member of the Board.

(3) At each Ordinary Meeting of the Board there shall be made available in so far as is practicable to the Members a financial statement relating to the actual income and expenditure for the preceding month and to date.

34. (1) The Board shall, not later than the last day of December in any year, cause its accounts for the preceding Financial Year to be balanced and a true statement and account to be prepared.

Balance Sheet and Audit etc.

(2) All such accounts shall be audited by an independent Auditor (who may be a firm of Auditors) who shall be appointed by the Board as provided in section 35 of this Act, and shall report his opinion as to whether or not the accounts reflect a true and fair view of the financial position of the Board.

(3) The Auditor shall have a right of access at all times to the books and accounts and vouchers of the Board, and shall be entitled to require from the Officers of the Board such information and explanations as he thinks necessary for the performance of his duties as Auditor.

(4) The statement and account referred to in subsection (1) of this section shall, together with the statement or report made by the Auditor and a report by the Director setting out the works undertaken by the Board and any matters appertaining thereto during the

preceding financial year, as soon as possible after their preparation, be furnished to the Prime Minister who shall cause a copy of the statement and account and of the reports to be laid before the next meeting of the Legislative Assembly.

(5) The Auditor shall be entitled to attend any Annual General Meeting of the Board and to receive all notices of and other communications relating to any Annual General Meeting which any member is entitled to receive and to be heard at any Annual General Meeting which they attend on any part of the business of the meeting which concerns him as Auditor.

Appointment
of Auditor.

35. (1) At each Annual General Meeting the Board shall appoint an independent Auditor who shall be a qualified chartered or certified accountant and who shall not be a member or employee of the Board or a person who is a partner of or in the employment of a member or employee of the Board. In the event of the Auditor being a firm of Auditors, all partners in the firm must be chartered or qualified accountants and no partner shall be a member or employee of the Board. Such Auditor shall hold office from the conclusion of that until the conclusion of the next Annual General Meeting.

(2) At any Annual General Meeting a retiring Auditor shall be re-appointed without any resolution being passed unless—

- (a) he is not qualified for re-appointment; or
- (b) he has given the Board notice in writing that he does not wish to be re-appointed; or
- (c) a resolution has been passed at that meeting appointing someone instead of him or providing expressly that he shall not be re-appointed:

Provided that 21 days' notice of any such resolution must be given to the Secretary who shall forthwith send a copy thereof to the retiring Auditor. Where notice of such an intended resolution has been given to him the retiring Auditor may, at his discretion, make written representations and such representations shall be read out at the Annual General Meeting.

PART VII.—GENERAL

Regulations.

36. The Board may from time to time make such regulations providing for all or any of the purposes, whether general or to meet particular cases, as may in the opinion of the Board be necessary for the administration of this Act or to carry out the objects and purposes of this Act.

37. (1) His Majesty may by Order-in-Council appoint a day† on which this Act shall come into force to the extent of enabling the election of Representatives of the Nobles and of the Producers to take place. Coming into force.

(2) Otherwise this Act shall come into force on the first day of January 1974.

FIRST SCHEDULE

(Substituted by Act 2 of 1983)

(Section 4)

The following are hereby declared to be commodities:

Coconuts

Coconut products (including copra), desiccated coconut and coconut oil

Bananas

Vanilla

SECOND SCHEDULE

SECTION 7(1)

Rules for Election of Representatives of Nobles

Election by ballot.

1. All Representatives of the Nobles shall be elected by a ballot.

Nobles eligible to vote.

2. All Nobles shall be eligible to vote for Representatives of the Nobles.

Appointment of Returning Officer.

3. The Prime Minister shall appoint a Returning Officer who shall subject to these rules have full charge of the election and who may appoint such Assistant Returning Officers as are necessary.

Date and place of election.

4. The Prime Minister shall, within 14 days of the coming into force of this part of this Act, appoint a day on which the first elections shall be held, and shall give at least 6 weeks' notice of such day, and shall appoint a place or places at which voting shall take place.

5. Thereafter, an election shall be held when the period of membership of a Representative of the Nobles, as hereinafter provided, expires, or when his membership of the Board terminates in terms of section 8 of this Act. The Prime Minister shall appoint the place or places at which such election shall be held and shall appoint the day on which such election shall be held as follows:—

- (a) In the event of an election resulting from the expiry of a Representative's period of office, the Prime Minister shall, 2 months prior to said expiry appoint the day on which such election shall be held and such election shall be held not sooner than 6 weeks after the date of appointment of the day and not later than the day on which the membership expires;

(b) in the event of termination of appointment in terms of section 8, the Prime Minister shall, within 2 weeks of said termination appoint the day on which such election shall be held and shall give at least 6 weeks' notice of such day.

6. The time for the election shall be from the hour of 10 a.m. to the hour of 12 noon on the day appointed.

List of Nobles eligible to vote and to be elected.

7. Within 21 days of the appointment of the day of election, the Returning Officer shall cause to be published in the Gazette a list of all Nobles eligible to vote and of those eligible to stand for election in terms of rule 2 of this Schedule, and shall send such list to each Noble.

Manner of voting and of election.

8. The Returning Officer or Assistant Returning Officer at each voting place shall distribute to each Noble present a ballot paper and shall explain to them that each should write the name or names of the Representative whom he desires to represent him from among the names of the list of those eligible to stand for election that no Noble is entitled to write his own name; that each Noble may vote only for the number of vacant seats and that each must sign his own name to the ballot paper in the space provided.

9. A Noble may vote in whichever of the appointed voting places is convenient to him.

10. As soon as is possible after the time for voting has passed, each Assistant Returning Officer shall forward the ballot papers to the Returning Officer.

11. The Returning Officer shall count the votes received by each Noble and shall immediately thereafter give written notification to the Prime Minister of the names of the Nobles elected as Representatives as follows:

- (a) In the first election held after the coming into force of this Act the Noble receiving the largest number of votes shall be elected to the Board as a Representative of the Nobles for a period of 3 years; and the Noble receiving the next largest number of votes shall be elected to the Board as a Representative of the Nobles for a period of 3 years;
- (b) in all subsequent elections the Noble receiving the largest number of votes shall be elected to the Board as a Representative of the Nobles for a period of 3 years; and the Noble receiving the next largest number of votes shall be elected to the Board as a Representative of the Nobles for a period of 3 years. (*Amended by Act 5 of 1975.*)

Retiring member eligible for re-election.

12. Any Noble elected as a Representative of the Nobles, whose period of membership expires, is eligible for re-election provided that he remains eligible in terms of this Schedule.

Appeal.

13. Any Noble eligible to vote, who considers that the election has not been carried out in conformity with these rules, may, within 7 days of the date of the election, appeal in writing to the Prime Minister who shall enquire into the complaint. In the event of the Prime Minister deciding that a major breach of these rules has taken place he may, at his sole discretion, declare null and void the result of the election in which such major breach of the rules took place, and in the event of his so doing he shall forthwith appoint a date for a new election.

THIRD SCHEDULE

Section 7(2)

*Rules for Election of Representatives of the Producers***Election by ballot.**

1. All Representatives of the Producers shall be elected by ballot.

Districts.

2. For the purposes of the election, the Kingdom shall be divided into six districts as follows:—

- (a) Tongatapu;
- (b) Ha'apai;
- (c) Vava'u;
- (d) 'Eua;
- (e) Niuatoputapu;
- (f) Niuafu'ou. (*Amended by Act 3 of 1982.*)

Persons eligible to vote.

3. All persons shall be eligible to vote for Representatives of the Producers in the district in which they ordinarily reside, provided that:—

- (a) They have attained the age of 16 years, and are Tongan subjects, and
- (b) during the year immediately prior to the date of the election—
 - (i) they were registered as banana growers with the Department of Agriculture; or
 - (ii) they were suppliers of copra or coconuts or commodities listed under the First Schedule to the Tonga Copra Board and/or Tonga Produce Board or with the Board, and
- (c) their names appear on the list of person eligible to vote as provided by Rule 9 hereof. (*Substituted by Act 25 of 1978.*)

Persons eligible to be elected and rules for nomination.

4. Any person eligible to vote in terms of rule 3 above shall be eligible to be elected as a Representative of the Producers in the district in which he ordinarily resides further provided that:—

- (a) he is not insolvent in fact or insane or has been convicted of an indictable offence or is not serving a sentence of imprisonment or has not been found guilty upon enquiry of evading or misapplying the provisions of this Act;
- (b) he is not a Noble;
- (c) he shall be nominated in writing and each nomination shall be signed by 20 persons eligible to vote in terms of rule 3 above in the district in which he seeks election;
- (d) said nomination is in the hands of the Returning Officer at least 30 days before the date of the election; receipt of nominations shall be at the Prime Minister's Office at Nuku'alofa, at the Governor's Office in the case of Ha'apai and Vava'u, and at the Magistrate's Office in the case of 'Eua, Niuatoputapu and Niuafu'ou. (*Amended by Acts 12 of 1976 and 3 of 1982.*)

Appointment of Returning Officer.

5. The Prime Minister shall appoint a Returning Officer who shall, subject to these rules, have full charge of the election and who may appoint such Assistant Returning Officers as are necessary.

Appointment of date and place of election.

6. The Prime Minister shall, within 14 days of the coming into force of this part of this Act, appoint a day on which the first elections shall be held in the districts of Tongatapu, Ha'apai, Vava'u and 'Eua, and shall give at least 6 weeks' notice of such day and shall appoint a place or places in each district at which voting shall take place.

7. Thereafter, an election shall be held when the period of membership of Representative of the Producers, as hereinafter provided, expires, or when his membership of the Board terminates in terms of section 8 of this Act. The Prime Minister shall appoint the place or places at which such election shall be held and shall appoint the day on which such election shall be held as follows:—

- (a) in the event of an election resulting from the expiry of a Representative's period of office, the Prime Minister shall, 2 months prior to said expiry, appoint the day on which such election shall be held, and such election shall be held not sooner than 6 weeks after the date of appointment of the day and not later than the day of expiry of the membership;
- (b) in the event of termination of appointment in terms of section 8 of this Act, the Prime Minister shall, within 2 weeks of said termination, appoint the day on which such election shall be held and shall give at least 6 weeks' notice of such day.

8. The time for the election shall be from the hour of 10 a.m. to the hour of 4 p.m. on the day appointed.

List of persons eligible to vote.

9. Within 30 days of the appointment of the day of election the Returning Officer shall—

- (a) cause to be published in the Tonga Government Gazette a list of all persons eligible to vote in terms of rule 3 of this Schedule in each district in which voting is to take place;
- (b) cause a copy of said Gazette to be available for public inspection in each district.

10. Any person whose name does not appear on the appropriate list and who considers that he is eligible to vote in terms of rule 3 of this Schedule, may, within 21 days of the publication of the list in the Gazette, appeal in writing to the Prime Minister, whose decision on the matter will be final, but who shall not override the provisions of rule 3 of this Schedule.

Persons to have one vote only.

11. No person shall be entitled to be registered as an elector in more than one district or to vote in more than one district.

Method of voting and election.

12. The ballot of each voter shall consist of a printed paper, showing on the face thereof the names and addresses of the persons nominated for election.

13. The Returning Officer or Assistant Returning Officer shall distribute to each of the electors present a ballot paper and shall explain to the electors that each shall vote for only the number of vacant seats that there may be in that district. Each elector shall strike out with a pen or pencil all names on

the ballot paper other than those of the Representative or Representatives he wishes to elect. Upon completion of the ballot paper an elector shall sign it and deposit it in the ballot box.

14. Any ballot paper which has not been signed by the elector submitting it or on which votes are given for more than the required number of Representatives to be elected for that district shall be null and void.

15. The Assistant Returning Officer in charge of each place at which voting takes place shall after the time for voting has expired count the votes on the ballot papers and then publicly announce, at the place at which voting has taken place, the amount of votes received by each person nominated. Thereafter he shall as soon as possible forward a certificate to the Returning Officer certifying the amount of votes received by each person nominated. When the totals for all places at which voting has taken place have been delivered to him the Returning Officer shall calculate the total number of votes received by each person nominated.

16. The Returning Officer shall immediately thereafter give written notice to the Prime Minister of the names of the persons elected as Representatives of the Producers as follows—

- (i) in the first election to be held after the coming into force of this part of this Act the persons elected in each district shall be—
 - (a) in Tongatapu, the person receiving the largest number of votes shall be elected for a period of 3 years and the person receiving the next largest number of votes shall be elected for a period of 3 years;
 - (b) in Ha'apai, the person receiving the largest number of votes shall be elected for a period of 3 years;
 - (c) in Vava'u, the person receiving the largest number of votes shall be elected for a period of 3 years;
 - (d) in 'Eua the person receiving the largest number of votes shall be elected for a period of 3 years;
- (ii) in all subsequent elections in all districts in accordance with section 6(1) of this Act the person receiving the largest number of votes shall be elected for a period of 3 years, and in the case of Tongatapu the person receiving the next largest number of votes shall be elected for a period of 3 years. (*Substituted by Act 5 of 1975.*)

Appeals.

17. Any person duly qualified as a voter in terms of rule 3 of this Schedule, who considers that an election held in terms of this Schedule has not been held in conformity with these rules, may, within 7 days of the date of the election, appeal in writing to the Prime Minister who shall cause an enquiry to be made into the complaint. In the event of the Prime Minister deciding that a major breach of these rules has taken place, he may, at his sole discretion, declare null and void the result of the election in which such major breach of the rules took place, and in the event of his so doing he shall forthwith appoint a date for a new election.

FOURTH SCHEDULE

SECTION 9(2)

Powers of Director of the Commodities Board

1. The Director of the Commodities Board shall have the following powers:—

- (a) to take action, without prior reference to the Board, but within the limits of policy already laid down by the Board, on all matters of an administrative nature. (The Director being responsible for keeping the Board fully advised of actions taken by him, such advice to be given at Ordinary Meetings.)
- (b) to take action on all questions relating to personnel administration. (Issues raised in connection with the most senior Officers or other than a routine nature will be referred to the Board).
- (c) while retaining ultimate responsibility to the Board, to delegate to the Managers concerned responsibility for administrative action within their respective spheres.

CHAPTER 115

COMMODITIES BOARD

SECTION 36—Commodities Board (Copra Stabilization Fund) Regulations

Made by the Commodities Board

G.S. 24/77

1. These Regulations may be cited as The Commodities Board (Copra Stabilization Fund) Regulations.
2. The Commodities Board shall establish a fund to be known as the Copra Stabilization Fund (hereinafter referred to as the Fund) and contributions to the Fund shall commence on the 1st day of March 1977.
3. Contributions to the Fund will be as set out in the Copra Price Formula currently in use or as determined from time to time by the Commodities Board.
4. The sum of \$100,000 shall be contributed to the Fund from the current surplus cash of the Copra Division of the Commodities Board.
5. A floor price of \$100 per ton shall be payable to producers of copra on the sale of this commodity to the Commodities Board after the 1st day of March 1977. The Board may at its discretion alter the floor price from time to time when circumstances warrant such a change.
6. A ceiling price of \$200 per ton shall be payable to producers of copra on the sale of this commodity to the Commodities Board after the 1st day of March 1977 and any surplus shall be paid into the Fund. The Board may at its discretion alter the ceiling price from time to time when circumstances warrant such a change.
7. At such time as the Fund reaches the sum of \$500,000, the Board may, at its discretion, cease deductions for the Fund.
8. The Fund shall be invested in easily realisable securities and shall be used only for the purposes of stabilizing the prices payable to producers of copra.
9. In these Regulations—
 - “floor price” means the lowest price that the Commodities Board shall pay to producers of copra;
 - “ceiling price” means the highest price that the Commodities Board shall pay to producers of copra.