



Republic of Namibia
Annotated Statutes

Canned Fruit Export Marketing Act 100 of 1967 (RSA)

(RSA GG 1778)

brought into force in South Africa and South West Africa
on 16 February 1968 by RSA Proc. R. 22/1968 (RSA GG 1982)
(see section 11 of Act)

APPLICABILITY TO SOUTH WEST AFRICA: Section 11 of the Act originally stated “This Act shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section 3 of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory.” Section 11, as substituted by Act 48 of 1971, made amendments to the Act automatically applicable to South West Africa as well: “This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel”.

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act (which was the responsibility of the Minister of Economic Affairs) was transferred to South West Africa by the Executive Powers (Commerce) Transfer Proclamation, AG 28 of 1978, dated 28 April 1978. As a result, the only amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Canned Fruit Export Marketing Amendment Act 15 of 1981* (RSA GG 7436) – did not apply to South West Africa because it was not made expressly so applicable. Act 100 of 1967 was repealed in South Africa by the *Marketing Amendment Act 79 of 1987* (RSA GG 10956), which was not made expressly applicable to South West Africa and therefore did not repeal the Act in respect of South West Africa.

Section 3(2) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, excluded from transfer the provisions of any transferred law “which provide for or relate to the institution, constitution or control of any juristic person or any board or other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic”. This may have excluded from transfer the provisions of this Act relating to the South African Canned Fruit Export Board.

as amended by

Canned Fruit Export Marketing Amendment

Act 48 of 1971 (RSA) (RSA GG 3135)

brought into force on 2 August 1971 by Proc. R.168 of 1971 (RSA GG 3221)

Finance Act 111 of 1977 (RSA) (RSA GG 5663)

came into force on date of publication: 20 July 1977

ACT

Canned Fruit Export Marketing Act 100 of 1967 (RSA)

To provide for the control and promotion of the marketing of canned fruit on export markets and to that end to establish a board of control; and to provide for other incidental matters.

*(Afrikaans text signed by the Acting State President)
(Assented to 19th June, 1967)*

ARRANGEMENT OF SECTIONS

1. Definitions
2. Establishment of South African Canned Fruit Export Board
3. Objects and general powers of the board
4. Constitution of the board
5. Officers, employees and agents of the board
6. Finances of the board
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BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Definitions

1. (1) In this Act, unless the context otherwise indicates -
 - (i) “board” means the South African Canned Fruit Export Board established by this Act;
 - (ii) “canned fruit” means canned apricots, canned peaches or canned pears or any canned product declared to be canned fruit under the provisions of subsection (2);
 - (iii) “cannery” means a factory producing canned fruit;
 - (iv) “co-operative society” means a co-operative society or company registered under the Co-operative Societies Act, 1939 (Act No. 29 of 1939);

[In Namibia, co-operative societies are currently governed by the Co-operatives Act 23 of 1996.]
 - (v) “licensee” means the holder of a licence issued under this Act;
 - (vi) “Minister” means the Minister of Economic Affairs.

(2) The Minister may from time to time by notice in the *Gazette* declare any canned product defined in such notice, which in his opinion contains one or more kinds of fruit or one or more ingredients derived from fruit, to be canned fruit for the purposes of this Act.

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(3) The Minister shall exercise the powers conferred upon him by subsection (2) in respect of any canned product, only on the recommendation of the board after consultation by the board with persons who in its opinion are the principal canners of such product.

Establishment of South African Canned Fruit Export Board

2. (1) There is hereby established a board to be known as the South African Canned Fruit Export Board, which shall be a body corporate, capable of suing and being sued in its corporate name and subject to the provisions of this Act, of purchasing or otherwise acquiring, holding, hiring, letting, selling, exchanging or otherwise alienating property, movable or immovable, of granting to any person any real right in or servitude over its property, of investing, lending or borrowing moneys and of performing all such acts as are necessary for or incidental to the attainment of its objects, the exercise of its powers and the performance of its functions.

(2) The board shall not let, sell, exchange or otherwise alienate its immovable property or grant to any person any real right in or servitude over such property, without the approval of the Minister.

(3) The Minister may on the conditions determined by him and with the concurrence of the Minister of Finance guarantee the repayment of the capital sum of, the payment of interest on, and the payment of expenses incurred in connection with, a loan extended to the board by a banking institution registered in terms of the Banks Act, 1965 (Act No. 23 of 1965).

[Subsection (3) is inserted by Act 111 of 1977.
The Banks Act 23 of 1965 has been replaced
by the Banking Institutions Act 2 of 1998.]

Objects and general powers of the board

3. The objects of the board shall be to control and promote the marketing of canned fruit on export markets, and to that end the board shall, in addition to any other powers vested in it by this Act, have power -

- (a) to establish an agency of the board in London to advise the board on matters relating to the marketing of canned fruit on export markets and to act as the agent of the board;
- (b) with the approval of the Minister, to assist any licensee with the marketing of canned fruit on export markets;
- (c) by notice in writing addressed to all licensees, to determine the terms and conditions subject to which a licensee may export for sale canned fruit in general or canned fruit of a class, kind or quality specified in such notice, to any country or territory or to any particular country or territory so specified;
- (d) by notice in writing addressed to all licensees, to determine the minimum price calculated in the manner specified in such notice, at which any licensee may sell any canned fruit or canned fruit of a class, kind, quality or quantity so specified, which has been exported or is intended for export by such licensee to any country or territory or to any particular country or territory so specified;
- (e) with the approval of the Minister and by notice in writing addressed to all licensees, to impose on all canned fruit exported for sale by any licensee, a levy

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calculated in the manner specified in such notice and payable to the board by such licensee in such manner and at such times as may be so specified;

- (f) by notice in writing to direct any licensee to furnish the board with or produce to it within such period as may be specified in such notice such information or returns or books, correspondence, accounts, statements, balance sheets, invoices or other documents or copies thereof, in his possession or custody or under his control, as may be so specified, relating to the sale, disposal or export, or intended sale, disposal or export of canned fruit by such licensee at any time, or relating to canned fruit which is or has at any time been in his possession or custody or under his control;
- (g) by notice in writing direct any person connected with the canned fruit industry to furnish the board within such period as may be specified in such notice with such information or returns as may be so specified, relating to the said industry;
- (h) to do all such things and perform all such functions as may be necessary or incidental to the attainment of its objects.

Constitution of the board

4. (1) The board shall consist of twelve members appointed by the Minister of whom -

- (a) eight shall represent the proprietors of canneries other than canneries owned by co-operative societies;
- (b) two shall represent co-operative societies owning canneries;
- (c) two shall represent producers of fruit intended for canning.

(2) The Minister shall by notice in writing invite as many nominations as he may determine -

- (a) from the South African Fruit and Vegetable Canners' Association (Proprietary) Limited or any other association which in the opinion of the Minister is its successor;
- (b) from any body which in the opinion of the Minister is sufficiently representative of co-operative societies owning canneries; and
- (c) from the Canning Fruit Board referred to in section 6 of the Canning Fruit Scheme established under the Marketing Act, 1968 (Act No. 59 of 1968), and promulgated by Proclamation No. R.215 of the twenty-eighth day of August, 1970,

and shall, subject to the provisions of subsection (3) select the members contemplated in subsection (1)(a) from among the nominees of any association aforesaid, the members contemplated in subsection (1)(b) from among the nominees of the body aforesaid and the members contemplated in subsection (1)(c) from among the nominees of the aforesaid Canning Fruit Board.

(3) If any nominations invited under subsection (2) are not lodged with the Minister within the period stated in the notice inviting such nominations, the Minister may, in making the

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appointment in respect of which such nominations are not so lodged, appoint any person whom he considers to be suitable to be a member of the board.

(4) The members of the board shall hold office for such period as the Minister may at the time of the appointment determine, but shall be eligible for re-appointment: Provided that if in his opinion there are good reasons for doing so, the Minister may at any time terminate the period of office of any member.

(5) A member of the board designated by the Minister as chairman, or, in his absence, such a member so designated as deputy chairman, shall preside at any meeting of the board: Provided that if both the chairman and the deputy chairman are absent from any meeting of the board, a chairman elected by the members present from among themselves, shall preside at such meeting.

(6) The board shall out of its funds pay to a member of the board such remuneration and allowances and afford him such transport facilities in respect of his services as such a member as the Minister in consultation with the Minister of Finance may determine.

[section 4 substituted by Act 48 of 1971]

Officers, employees and agents of the board

5. The board may appoint on such conditions and at such remuneration as may be approved by the Minister in consultation with the Minister of Finance such officers, employees or agents in the Republic or elsewhere as may be required to assist the board in the performance of its functions.

Finances of the board

6. (1) The funds of the board shall consist of moneys received by way of levies under section 3(e) or from any other source.

(2) Subject to the provisions of subsection (3), the board shall utilize its funds for defraying expenses in connection with the performance of its functions.

(3) The board may invest any unexpended portion of its moneys with the Public Debt Commissioners or in such other manner as may be determined by the Minister in consultation with the Minister of Finance.

(4) (a) The board shall keep proper records of all its financial transactions.

(b) The period from the first day of November, 1970, to the thirty-first day of December, 1971, both dates inclusive, shall be a financial year of the board and thereafter the financial year of the board shall terminate on the thirty-first day of December in each year.

[subsection (4) substituted by Act 48 of 1971]

(5) The board shall open one or more accounts with any bank approved by the Minister and shall deposit therein any moneys received.

(6) The accounts of the board shall be audited by the Controller and Auditor-General.

(7) The board shall furnish the Minister with such information as he may call for from time to time in respect of the activities and financial position of the board, and shall in addition

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submit to the Minister an annual report, including a balance sheet certified by the Controller and Auditor-General and a statement of income and expenditure.

(8) The Minister shall lay the said report upon the Table of the Senate and of the House of Assembly within fourteen days after receipt thereof, if Parliament is then in ordinary session, or, if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

Indemnity of members of board

7. The members of the board shall not be personally liable for any act or omission of the board where the board acted in good faith in the exercise of its powers or the performance of its functions.

Licences to export canned fruit for sale

8. (1) No person shall export for sale or offer to export for sale any canned fruit to any country or territory specified by the Minister from time to time by notice in the *Gazette*, unless he is the holder of a licence issued under this section.

[subsection (1) substituted by Act 48 of 1971]

(2) A licence under this section shall be required in addition to any other licence or permit which may be required in terms of any law.

(3) (a) An application for a licence to export canned fruit for sale shall be in such form as the Minister may determine and shall, together with the amount determined under paragraph (b), be lodged with the board who shall forward such application to the Minister together with its recommendation.

(b) The amount referred to in paragraph (a) shall be determined by the Minister on the recommendation of the board by notice in the *Gazette*.

[subsection (3) substituted by Act 48 of 1971]

(4) On receipt of any such application the Minister or any person acting under his authority may at his discretion, after considering the recommendation of the board, issue to the applicant a licence to export canned fruit for sale for such period as may be specified in such licence.

(4A) If an application for a licence referred to in subsection (3) is granted, the amount lodged together with such application shall accrue to the board, and if such application is refused such amount shall be refunded to the applicant.

[subsection (4A) inserted by Act 48 of 1971]

(5) The Minister may, after consultation with the board, cancel or suspend for such period as he may determine, any licence issued under this section, if he is satisfied that the licensee has committed an offence under this Act or has failed to pay any levy payable by him under this Act.

Offences

9. Any person who -

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- (a) being a licensee, exports or sells canned fruit contrary to a determination contained in a notice issued under section 3(c) or (d);
- (b) being a licensee, fails to comply with a notice issued under section 3(f);
- (c) fails to comply with a notice issued under section 3(g);
- (d) contravenes the provisions of section 8(1),

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or, in default of payment, to imprisonment for a period not exceeding twelve months.

Regulations

10. The Minister may make regulations as to -
- (a) the calling of and procedure and quorum at meetings of the board;
 - (b) generally, all matters for which he deems it necessary or expedient to make regulations in order to attain the objects of this Act.

Application of Act in South-West Africa

11. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

[Section 11 is substituted by Act 48 of 1971. It originally read as follows:

“This Act shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section 3 of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory.”]

Repeal

12. The Canned Fruit and Vegetables Export Control Act, 1956 (Act No. 66 of 1956), is hereby repealed.

[Act 66 of 1956 (SA GG 5715), which is repealed by this section, applied to South West Africa by virtue of the definition of “the Union” in section 1, which included “the territory of South-West Africa”, and by virtue of section 7, which stated: “This Act shall apply also in the territory of South-West Africa.” Act 66 of 1956 was amended by the Canned Fruit and Vegetables Export Control Amendment Act 83 of 1957 (SA GG 5908), the Canned Fruit and Vegetables Export Control Amendment Act 28 of 1958 (SA GG 6109) and the Canned Fruit and Vegetables Export Control Amendment Act 69 of 1959 (SA GG 6259); Act 69 of 1959 expressly made all three amending Acts applicable to South West Africa. The three amending Acts do not seem to have been repealed in South West Africa or Namibia; thus, they remain in force, but they have no independent relevance given the repeal of the principal Act which they amended.]

Short title and date of commencement

13. This Act shall be called the Canned Fruit Export Marketing Act, 1967, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.