

Lesotho

Agricultural Marketing Act, 1967

Act 26 of 1967

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Lesotho

Agricultural Marketing Act, 1967

Act 26 of 1967

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ACT

To control and improve the production, preparation, processing and marketing of agricultural products and the marketing of agricultural supplies, to consolidate and amend the law relating to the preparation, processing and marketing of agricultural products, and to provide for incidental and connected matters.

Enacted by the Parliament of Lesotho

1. Short title

This Act may be cited as the Agricultural Marketing Act 1967.

2. Interpretation

In this Act and in the regulations, unless inconsistent with the context—

"**class**" or "grade" in relation to a product, whether processed or unprocessed, or in relation to a supply includes any kind, variety or standard of quality of that product or supply;

"**dealing in the course of trade**" includes—

- (a) purchasing or receiving on consignment a quantity of a product or supply if that quantity is or is intended to be sold by the person purchasing or receiving that quantity, on his own behalf or on behalf of a consignor, whether in the form in which it was purchased or consigned or in a form altered by preparation or processing or in any other form, or is used or is intended to be used in the manufacture or processing of a product or commodity sold or intended to be sold by that person; and
- (b) performing, for any consideration whatsoever, an act in the preparation or processing of a quantity of a product or supply if that quantity is not owned by the person performing that act;

"**marketing**" means selling, or purchasing and includes any activity related thereto; and the word "marketed" shall be construed accordingly;

"**Minister**" means the Minister for the time being responsible for Agriculture;

"**person**" includes any company or association or body of persons, corporate or incorporate and, in particular, includes any agricultural development authority established by law and any society registered under the Co-operative Societies Proclamation;

[P. 47 of 1948 Vol. III p 2056]

"**preparation**" includes classing, grading, testing, packing, marking, labelling, storing and transporting and grammatical variations thereof shall be construed accordingly;

"**processing**" includes—

- (a) threshing or cleaning; and
- (b) slaughtering animals and separating animals into meat and by-products and the words "processed" and "unprocessed" shall be construed accordingly;

"**producer**" includes—

- (a) a person concerned in the production or preparation of a product; and
- (b) in relation to any quantity of a product that has been acquired from a person—
 - (i) as consideration for the right to use land on which that person has produced a quantity of that product; or
 - (ii) as a remuneration for services rendered to a producer of that product,

the person who so acquired that quantity and the words "produced" and "producing" shall be construed accordingly;

"**product**" means an agricultural product, including seed, livestock, poultry and a portion or unprocessed product thereof;

"**purchase**" means to acquire by giving any consideration whatsoever or by exchanging; or to import, advertise, receive or prepare in pursuance of, or with the intention of, acquiring by giving any consideration whatsoever or by exchanging and the words "purchasing" and "purchased" shall be construed accordingly;

"**regulation**" means a regulation made under this Act and includes any Notice or Order made pursuant to such a regulation;

"**sell**" means to dispose of for any consideration whatsoever or exchange; or to export, offer, advertise, expose, deliver or prepare in pursuance of or with the intention of, disposing of for any consideration whatsoever or exchanging and the word "selling" shall be construed accordingly;

"**supply**" means fertilizers, insecticides, herbicides, bags and other containers, livestock feeds and drugs, dips, dyes and other supplies relating to livestock and agriculture.

3. Purposes of this Act

The purposes of this Act are to—

- (a) ensure that each producer is paid prices which adequately reflect the value of the quantity and quality of his product in Lesotho and on external markets;
- (b) improve the value of each product in Lesotho and on external markets by adequate preparation, processing and marketing;
- (c) ensure that products sold in Lesotho are of good quality, fairly priced and accurately represented;
- (d) obtain adequate information to assess activities relating to the production, preparation, processing and marketing of products and supplies; and
- (e) control and improve the exportation and importation of products and supplies, and in particular to—
 - (i) ensure that exportation and importation of products and supplies occurs at time, in quantities and by means most beneficial to Lesotho; and
 - (ii) prohibit the importation of products and supplies which are unsafe or inappropriate for the function for which they are to be sold.

4. Power to make regulations

The Minister may by Notice in the *Gazette* make regulations for carrying out the purposes and provisions of this Act and in particular, but without prejudice to the generality of the foregoing, he may make regulations to—

- (a) control and improve the preparation, processing and marketing of a product and the marketing of a supply;
- (b) prohibit any person from dealing in the course of trade with a product within Lesotho or within any specified geographic area in Lesotho unless he has been licensed; and in particular to provide for—
 - (i) procedure whereby applications for licences shall be considered;
 - (ii) requirements and fees for the issue of licences;
 - (iii) conditions to which licences shall be subject;
 - (iv) periods of time during which licences shall be valid; and
 - (v) suspension or cancellation of licences; or
- (c) prohibit any person who is dealing in the course of trade from purchasing or selling a product or supply either generally or for a specified purpose unless that product or supply is prepared, processed or marketed in a specified manner and unless that product or supply is a specified quality, class or grade;
- (d) prohibit—
 - (i) any person from selling a product, or from selling an amount of a product in excess of a specified quantity or percentage thereof to a person who is dealing in the course of trade except to or through a specified person; and
 - (ii) any person who is dealing in the course of trade from purchasing a product, or from purchasing an amount of a product in excess of a specified quantity or percentage thereof;
- (e) prohibit any person who is dealing in the course of trade from purchasing or selling a product, whether processed or unprocessed, or a supply or an amount of that product or supply in excess of a specified quantity or percentage thereof at price other than or below or above either a fixed price or a price calculated in accordance with a specified basis; and to prohibit a person from preparing or processing a product, if that product is not owned by that person, at a fee other than or below or above either a fixed fee or a fee calculated in accordance with a specified basis; and in particular to—
 - (i) determine the charges or costs to be included in, added to or deducted from that price or fee or the weight to be allowed, in relation to that quantity, for any container of the product or supply in question;
 - (ii) require that price or fee so fixed be displayed in a specified manner and form and at places, on vehicles and by persons as may be specified;
 - (iii) fix in respect of a quantity of a product or supply which is acquired for one purpose a price or fee which differs from the price or fee fixed in respect of a quantity of that product or supply acquired for any other purpose;
 - (iv) fix in respect of one quantity of a product or supply a price or fee which differs from the price or fee fixed in respect of any other quantity of that product or supply; and
 - (v) fix, in respect of a quantity of a product or supply, at one time of the year a price or fee which differs from the price or fee fixed at any other time of the year;

- (f) prescribe—
 - (i) the records to be kept;
 - (ii) the period for which those records shall be retained; and
 - (iii) the returns to be rendered to the Minister and the times at which and the form and manner in which those returns shall be so rendered, by any person producing, preparing, or processing a product or marketing a product, whether processed or unprocessed, or a supply;
- (g) prohibit the importation into or exportation from Lesotho of a product, whether processed or unprocessed, or of a supply or of an amount of that product or supply in excess of a specified quantity or percentage thereof or unless specified conditions are complied with; such conditions may include a condition that that product or supply be exported or imported only—
 - (i) through specified ports of exit or entry;
 - (ii) if that product or supply meets specified standards of preparation, processing or marketing or if it is a specified quality, class or grade;
 - (iii) if the exporter or importer sells or purchases that product or supply in specified quantities;
 - (iv) if the exporter or importer purchases consigns, sells or disposes of all or any portion of that product or supply to or through a specified person, agency or market;
- (h) empower, in order to carry out the provisions of a regulation, a person generally or in a particular case at all reasonable hours...—
 - (i) to enter a place in which there is usually residing or doing business a person who is, or is suspected upon reasonable grounds to be, a person producing, preparing, processing or dealing in the course of trade with a product, whether processed or unprocessed, or a person dealing in the course of trade with a supply; or a place or vehicle in or upon which there is kept, or is suspected upon reasonable grounds to be kept, a quantity of a product supply by a person for a purpose other than consumption by the owner of the product or supply or by members of his household;
 - (ii) to inspect that product or supply, to ascertain the quantity and quality thereof, and to examine all books and documents at that place or in or upon that vehicle which are believed upon reasonable grounds to relate to that product or supply and to make copies of or take extracts from those books and documents;
 - (iii) to demand from the owner or custodian of that product or supply information concerning the product or supply;
 - (iv) to demand from the owner or custodian of that book or document an explanation of an entry therein;
 - (v) to seize a book, document or article which may afford evidence of the commission of an offence under this Act or a regulation, or quantity of a product or supply in respect of which an offence is suspected upon reasonable grounds to have been committed, and to remove from the place or vehicle in question or to leave at the place or on that vehicle a book, document or article or quantity of a product or supply which has been so seized, and to place on that book, document, article, product or supply or on the container thereof, any identification mark which he may consider necessary; and
 - (vi) to take samples of that product or supply including a quantity of a product or supply which has been seized in terms of sub-paragraph (v), and to examine, test or grade those samples or cause them to be examined, tested or graded;

[omitted under Order 11 of 1971 sec. 3(1)]

 - (i) appoint, subject to the law relating to the public service, officers and confer or delegate powers and duties for carrying out the purposes and provisions of this Act and the regulations;

- (j) constitute offences with regard to the contravention of, or failure to comply with, a provision of the following—
 - (i) a regulation; and
 - (ii) a requirement or condition of a registration, exemption, permit or authority issued pursuant to a regulation;
- (k) constitute offences with regard to wilfully obstructing or resisting the lawful exercise by a duly authorised officer or person of a power conferred by or necessary for the carrying out of a provision of a regulation;
- (l) prescribe punishments to be imposed on a person who is found guilty by a court of law of an offence as constituted by a regulation under paragraph (j) or (k); such punishment, in relation to a first conviction for any one offence, may be a fine not exceeding two hundred rands or imprisonment for a period not exceeding six months or both such fine and imprisonment and, in relation to a subsequent conviction for a similar offence, may be a fine not exceeding two thousand rands or imprisonment for a period not exceeding two years or both such fine and imprisonment; and
- (m) prescribe forms to be used for carrying out a provision of a regulation.

[GN 59/1968; LN 35/1969]

5. Relationship of regulations to other laws

A regulation made in pursuance of section four shall be in addition to and not in derogation from the provisions of any other law and of any regulation made or permit given under any other law.

6. Exemption from and application of regulations

- (1) The Minister may provide by regulation that a person be granted an exemption, or be granted an exemption on specified conditions, from the operation of any provision of a regulation.
- (2) The Minister may further provide by regulation that a provision of a regulation shall apply—
 - (a) to one person, group or class of persons producing, preparing or processing a product or dealing in the course of trade with a product, whether processed or unprocessed, or a supply, but not apply to another person, group or class of persons, producing, preparing or processing a product or dealing in the course of trade with a product, whether processed or unprocessed, or a supply, or differ from a provision which does apply to another person, group or class of persons producing, preparing or processing a product or dealing in the course of trade with a product, whether processed or unprocessed, or a supply;
 - [omitted under Order 11 of 1971 sec. 3(1)]*
 - (b) to one product, whether processed or unprocessed, or one supply, but not apply to another product, whether processed or unprocessed, or another supply, or differ from a provision which does apply to another product, whether processed or unprocessed, or another supply;
 - (c) to one class or grade of a product, whether processed or unprocessed, or a supply, but not apply to another class or grade of that product or supply;
 - (d) in one geographic area, but not apply to another geographic area or differ from a provision which does apply to another geographic area.

7. Presentation of regulations to Parliament

A regulation made in pursuance of section four shall be laid before Parliament within fourteen days after it is made if Parliament is then sitting. If Parliament is not then sitting, that regulation shall be laid before Parliament within fourteen days after the commencement of the next meeting. Such a regulation shall continue to have force of law unless a resolution is passed by both Houses of Parliament disapproving that

regulation, whereupon it shall cease to have force of law to the extent of the disapproval expressed in the resolution.

8. Power to make Orders and Notices

A regulation may empower such officers or persons as may be specified in the regulation to make Orders and Notices that are necessary for carrying out the provisions of this Act and the regulations.

9. Authority in relation to extra-Territorial operations

The Minister is authorised, in pursuance to an agreement entered into between the King on behalf of the Government of Lesotho and the Government of other States, to arrange for officers of the Governments of such other States, to perform, within such other States, functions necessary for the implementation of this Act and of the regulations.

10. Repeals

- (1) Subject to the provisions of subsection (2), the laws specified in the Schedule are hereby repealed with effect from a date to be fixed by the Minister by notice in the *Gazette*. Different dates may be so fixed for the repeal of any provisions of the laws specified herein.
- (2) Notwithstanding the repeal of a law by subsection (1), all regulations, rules, by-laws, and orders made or issued under that law shall remain in force, so far as they are not inconsistent with this Act or the regulations, until they are repealed or replaced by regulations or Orders made or issued under the provisions of this Act.

Schedule

Title	Number	Reference
The Grain and Produce Trading Proclamation	49 of 1920	Volume III, page 1958
The Wheat and Wheaten Products Control Proclamation	64 of 1941	Volume III, page 1942
The Wool and Mohair Marketing and Export Proclamation	1 of 1952	Volume III, page 1996