

REPUBLIC OF VANUATU

BILL FOR

THE VANUATU COMMODITIES MARKETING BOARD

ACT NO 10 OF 1981

Explanatory Note

The purpose of this law is to establish an authority to control the marketing and export of commodities, primarily Copra from the Republic of Vanuatu. This authority will be the Vanuatu Commodities Marketing Board established under section 4.

Once the Board is established, it is anticipated that producers, particularly the small farmers, will receive a steadier and hopefully a greater return for their produce. The Board will additionally act as a buffer between overseas prices and domestic prices by introducing a price stabilisation scheme.

Under Section 3, the Minister may by Order declare that a commodity shall become a "prescribed commodity". That commodity will then be subject to the provisions of the Act. The first commodity to be so prescribed will be copra.

Section 2 of the Act prevents any person other than the Board or its agents exporting a prescribed commodity from the Republic of Vanuatu. Sections 6 and 7 deal with the powers and functions of the Board to purchase, export and otherwise handle, prescribed commodities.

Part 7 of the Act deals generally with the control of funds of the Board. Funds of each particular prescribed commodity will be kept separate (devisionalised) (Section 15). This arrangement will ensure that the funds of any one commodity division will not be used by another.

APRIL 1981

K. KALSAKAU

MINISTER OF FINANCE

REPUBLIC OF VANUATU

BILL FOR
THE VANUATU COMMODITIES MARKETING BOARD
ACT NO OF 1981

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REPUBLIC OF VANUATU

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THE VANUATU COMMODITIES MARKETING BOARD
ACT NO OF 1981

To provide for the establishment of the Vanuatu Commodity Marketing Board, for the control and regulation of the marketing of prescribed commodities, and for the matters connected therewith.

Be it enacted by the President and Parliament as follows :-

PART 1 - INTERPRETATION

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tation.
1. In this Act unless the context otherwise requires -
- "Board" means the Vanuatu Commodity Marketing Board established under Section 4;
- "Minister" means the Minister for the time being responsible for Finance;
- "Prescribed Commodity" means a commodity declared a prescribed commodity under section 3;
- "Purchase" includes exchange or barter whether of goods or services and any agreement or contract to purchase, exchange or barter.

PART 2 - CONTROL OF PRESCRIBED COMMODITIES

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2. From and after the commencement of this Act, no person other than the Board, its agents or persons authorised in writing by the Board shall export a prescribed commodity out of Vanuatu.
3. The Minister after consultation with the Chairman of the Board may, by order published in the Gazette declare a commodity a prescribed commodity under this Act.
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PART 3 - ESTABLISHMENT OF THE VANUATU COMMODITIES

MARKETING BOARD

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4. There is hereby established a board to be known as the Vanuatu Commodities Marketing Board which shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

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- 5.(1) The Board shall consist of a chairman, a deputy Chairman and nine other members appointed by the Minister and shall be composed as follows :-
- (a) the Director of Agriculture or his nominee, ex officio, member;
 - (b) the General Manager of the Board or his nominee, ex officio, member;
 - (c) a representative of the Ministry of Finance, member;
 - (d) six persons who are commodity producers, members;
 - (e) two other persons, members.
- (2) The Minister shall appoint the Chairman and deputy Chairman from amongst the members.
- (3) The term of office of appointed members shall be two years and such members shall be eligible for re-appointment.
- (4) A member may resign his office by notice in writing given to the Minister.
- (5) The Minister may remove a member from office by notice published in the Gazette.
- (6) The Minister on appointing a member in accordance with paragraphs (d) and (e) of subsection (1), shall nominate an alternate to such member who shall act during such member's temporary absence from Vanuatu or incapacity through illness.
- (7) An alternate member when acting in the place of a member shall enjoy all the rights of and exercise all the powers, functions and duties of the member he represents.
- (8) All appointments and nominations made under this section shall be published in the Gazette.

PART 4 - FUNCTIONS AND POWERS OF THE BOARD

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6. (1) The functions of the Board shall be as follows -
- (a) to secure the most favourable arrangements for the purchase, sale, grading and export of prescribed commodities;
 - (b) to purchase prescribed commodities or products thereof and to sell or export the same;
 - (c) to develop or to assist in the development of the various prescribed commodity industries in the Republic of Vanuatu, including the manufacture and processing of prescribed commodities and related products, for the benefit and prosperity of those industries;
 - (d) to stabilise prices paid for prescribed commodities.
- (2) In carrying out its functions under this Act, the Board shall so conduct its affairs as to avoid the need to rely on Government grants or subsidies.

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7. In carrying out its functions under this Act, the Board shall have the following powers :-
- (a) to purchase prescribed commodities produced in the Republic of Vanuatu which may be offered and delivered to the Board, after such commodities have been graded as suitable for export;
 - (b) to control and fix prices from time to time payable to producers for prescribed commodities and to notify such prices;
 - (c) to purchase prescribed commodities directly or through an agent and to do all things necessary for, and in connection with, the purchase of such commodities;
 - (d) to sell prescribed commodities and to do all things necessary for, and in connection with their marketing, cleaning, storing for export and shipping;
 - (e) to appoint agents for the purchase, storage and export of prescribed commodities for such periods and on such terms and conditions as the Board may require;
 - (f) to grant, withhold or cancel any written authority provided for by section 2 and to impose conditions upon the grant of such authority;
 - (g) to purchase, hold, manage and dispose of real or personal property;
 - (h) to establish pension schemes or any other welfare schemes for the benefit of its officers and employees;
 - (i) subject to the prior approval of the Minister, to borrow or lend money on such terms and conditions as the Board thinks fit;
 - (j) to do all that is necessary or required to be done in respect of its functions under this Act.

PART 5 - MEETINGS OF THE BOARD

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8. (1) Meetings of the Board shall be held at such times and places as the Chairman or in his absence the Deputy Chairman, may from time to time appoint.
- (2) The quorum at meetings of the Board shall be four members, including the Chairman or in his absence, the Deputy Chairman.
- (3) The Chairman, or in his absence the Deputy Chairman, shall preside at every meeting of the Board. Where neither the Chairman nor the Deputy Chairman is present at a meeting of the Board, the Board shall elect one of its members to be Chairman for that meeting and such member acting as Chairman shall have and exercise all the powers of the Chairman under this Act.
- (4) The proceedings at any meeting shall not be invalidated by any defect in the appointment of a member.
- (5) Decisions of the Board shall be made by a majority vote of members present and voting. The Chairman or the Deputy Chairman, as the case may be, shall have a casting vote.
- (6) If a member has any pecuniary interests, direct or indirect in any contract or proposed contract or other matter relating to the Board, he shall as soon as practicable disclose to the Chairman of the Board the fact and nature of his interest.
- (7) The Board may invite any person or persons to participate in meetings of the Board but they shall have no vote.
- (8) Subject to this Act, the Board may make internal rules regulating its procedures for the Chairmanship, calling, conducting and adjournment of meetings of the Board.
- (9) Any rules made in accordance with subsection (8) shall be issued under the hand of the Chairman or the Secretary of the Board.

PART 6 - ADMINISTRATION OF THE BOARD

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9. (1) The Board shall appoint, at such remuneration and upon such terms and conditions as it thinks fit -
- (a) a General Manager who shall be the Chief Executive of the Board and of all its operations;
 - (b) a secretary to the Board; and
 - (c) such other officers and employees as may be required for the proper and efficient discharge of the functions of the Board.

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10. The Board may, by resolution or otherwise, delegate to the General Manager with or without restrictions or conditions, such of its powers and functions as it deems expedient for the efficient discharge of the day to day operations of the Board.

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11. No personal liability shall attach to any member, officer or employee of the Board in respect of anything done or not done in good faith, and without negligence in the course of the operation of the Board.

PART 7 - FINANCIAL PROVISIONS

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12. In this part,
"commodity division" means the separation of accounts and funds in respect of each prescribed commodity;
"prescribed commodity" includes products thereof.

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Board.

13. The funds of the Board shall consist of the following -
- (a) monies derived from the sale of prescribed commodities by the Board and any interest accruing from the investment of such monies;
 - (b) monies borrowed by the Board;
 - (c) all sums received by or falling due to the Board in respect of the repayment of any loan made by the Board or the interest receivable in respect of any such loan;
 - (d) grants from Government;
 - (e) grants from other sources;
 - (f) monies received by the Board in any other way in the course of the discharge of its functions.

application
funds.

14. Subject to section 15, the Board may from time to time apply the funds at its disposal or any part thereof to -
- (a) the purchase of a prescribed commodity;
 - (b) the proper and efficient discharge of its functions, responsibilities and operations under this Act;
 - (c) the payment of salaries, allowances and expenses of its officers and employees and, subject to the approval of the Minister, allowances for its members;
 - (d) stabilising prices paid for prescribed commodities.

separation
funds and
accounts of
the Board
to Commodity
divisions.

- 15.(1) Accumulated funds of each individual prescribed commodity after revenues and expenditures for that prescribed commodity have been taken into account shall be for the use of that commodity division only.
- (2) Notwithstanding subsection (1) any expense of an administrative or general nature not directly attributable to any one commodity division shall be allocated to commodity divisions in such proportion as the Board may determine.

surplus
funds
may be
invested.

16. Any surplus funds generated by the Board in the course of carrying out its functions and powers may be invested in such manner as the Board may approve.

accounts
of the
Board.

- 17.(1) The Board shall keep proper accounts and other records in respect of its receipts and expenditure and shall cause to be prepared an annual statement of accounts in respect of each financial year.
- (2) The accounts of the Board shall be made up to the thirtieth day of September in each financial year and shall be audited by an independent and properly qualified auditor approved by the Minister and appointed by the Board.
- (3) Fees payable to the auditor appointed under subsection 2 shall be paid out of the funds of the Board.
- (4) The Board shall provide the Minister and the Auditor General of Vanuatu each with a copy of the audited accounts and report thereon by the auditor referred to in subsection 2.

Annual
report.

18. After the thirtieth day of September in each year, the Board shall prepare a report of its operations during the preceding year and shall send a copy to the Minister and publish the same in such manner as the Minister may direct.

Dissolution of
the Board.

19. In the event of the dissolution of the Board, any funds remaining at the disposal of the Board after the discharge of all debts and liabilities shall be distributed for the benefit of prescribed commodity producers in accordance with the directions of the Board and in proportion to each commodity division's net worth at the time of dissolution.

PART 8 - PENALTIES, ORDERS

Penalty.

20. (1) Any person who contravenes the provisions of section 2 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 200,000 Vatu or to imprisonment not exceeding twelve months or to both.
- (2) Where an offence against section 2 is committed by a Corporation and whether or not the Corporation has been prosecuted or convicted, every person who at the time of the commission of the offence was a director or officer of the Corporation is guilty of the like offence and is liable on conviction to the punishment provided for the offence upon proof that the act constituting the offence took place with his knowledge or consent, or that he failed to exercise due diligence to prevent the commission of such offence.

False
representation.

21. (1) Any person who falsely holds himself out or represents himself to be an agent or a person acting on the authority or instructions of the Board, shall commit an offence and shall be liable on conviction to a fine not exceeding 100,000 Vatu or a term of imprisonment not exceeding six months or to both.

Directions by
Minister.

22. The Minister, after consultation with the Board may give to the Board such directions of a general character with respect to the performance of any functions of the Board as appear to the Minister to be requisite in the public interest.

Orders.

23. The Minister may by order make regulations not inconsistent with this Act for the better carrying out of the objects and purposes of this Act.

Comm-
encement.

24. This Act shall come into force on such day as the Minister may appoint by Order published in the Gazette and the Minister may appoint different days for the coming into force of different sections of this Act.