

NATIONAL AGRICULTURAL PRODUCTS REGULATORY OFFICE ACT

Act 3 of 2013 – 26 November 2013

ARRANGEMENT OF SECTIONS

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NATIONAL AGRICULTURAL PRODUCTS REGULATORY OFFICE ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the National Agricultural Products Regulatory Office Act.

2. Interpretation

In this Act—

“abattoir” has the same meaning as in the Meat Act;

“Authority” means the Mauritius Meat Authority established under the Meat Act;

“clearance” means a clearance given under section 18;

“close season” means a period during which the hunting of deer is prohibited;

“contract” means a tea contract or tobacco contract;

“contractual tea year” means the period extending from 1 July of one year to 30 June of the following year;

“contractual tobacco year” means the period extending from 1 March of one year to 28 or 29 February, as the case may be, of the following year;

“co-operative society” means a society registered under the Co-operatives Act;

“cultivator” —

(a) means a person who cultivates, or causes to be cultivated, green leaf or tobacco; and

(b) includes a *métayer* and a co-operative society;

“game licence” has the same meaning as in the Wildlife and National Parks Act;

“game venison” means venison derived from carcasses of deer which have been hunted under a game licence;

“green leaf” means the green leaf of the *camellia sinensis* plant or bush, in its natural and unprocessed state;

“leaf tobacco” —

(a) means tobacco leaf which is in the process of being cured or which has been cured; and

(b) includes tobacco in the form of strips and stems or such other form as NAPRO may approve;

“licence” means a licence issued under section 9;

“meat” —

(a) means the carcass, offal or other edible parts of an animal; but

(b) does not include the edible parts of a bird, fish, hare or rabbit;

“meat product” means any product derived from the processing of meat;

“*métayer*” means a person who, under a tea contract with a cultivator, cultivates green leaf on the land of the cultivator, and undertakes to sell to that cultivator the green leaf cultivated on that land at such price as may be determined by NAPRO and published in the *Gazette*;

“Minister” means the Minister to whom responsibility for the subject of agriculture is assigned;

“NAPRO” means the National Agricultural Products Regulatory Office set up under section 4;

“officer” —

- (a) means an officer of NAPRO; and
- (b) includes the officer-in-charge of NAPRO;

“producer” —

- (a) means a person who is engaged in the production, preparation, manufacturing, processing and packing of tea products and tobacco products; but
- (b) does not include a cultivator;

“regulated product” means a product specified in the First Schedule;

“religious ceremony” means a religious ceremony specified in the Second Schedule;

“sell” includes —

- (a) sell by auction;
- (b) offer to sell;
- (c) expose, display or advertise for sale;
- (d) exchange or dispose of for any valuable consideration;

“slaughterhouse” means premises or any other place used to slaughter or kill an animal to obtain meat;

“supervising officer” means the supervising officer of the Ministry;

“tea” means the *camellia sinensis* plant or bush;

“tea contract” or “tobacco contract” means a contract entered into in accordance with section 15;

“tea product” means the product derived from the processing of green leaf;

“tobacco” means a plant belonging to the species *nicotiana tabacum* or *nicotiana rustica*;

“tobacco product” means tobacco which has undergone processing for use as cigarettes, cigars, snuff, chewing tobacco, and in such other form as may be approved by NAPRO;

“venison” includes game venison;

“venison dealer” means a person who holds a licence to sell venison by wholesale;

“venison retailer” means a person who holds a licence to sell venison by retail.

3. Application of Act

This Act shall bind the State.

PART II – ADMINISTRATION AND MANAGEMENT OF NATIONAL AGRICULTURAL PRODUCTS REGULATORY OFFICE

4. National Agricultural Products Regulatory Office

(1) There is set up for the purposes of this Act a division within the Ministry, to be known as the National Agricultural Products Regulatory Office or NAPRO.

(2) NAPRO shall—

- (a) control and regulate the import, export, production and sale of regulated products;
- (b) control and regulate the preparation, processing, packing and manufacturing of regulated products;
- (c) regulate the activities and premises in connection with the slaughtering of animals;
- (d) determine the prices at which green leaf and leaf tobacco may be sold to a producer;
- (e) determine the prices at which green leaf may be sold by a *métayer* to a cultivator;
- (f) have such other functions as may be conferred upon it by this Act or any other enactment.

5. Officer in charge of NAPRO

(1) There shall be an officer-in-charge of NAPRO who shall be a public officer.

(2) The officer-in-charge shall, in the discharge of his functions and exercise of his powers—

- (a) be under the administrative control of the supervising officer and be responsible to the supervising officer;
- (b) be responsible for the management and administration of the day-to-day business of NAPRO;
- (c) be responsible for the execution of the policy of the Ministry with regard to regulated products;
- (d) carry out such other assignments given to him by the supervising officer.

6. Officers of NAPRO

(1) The supervising officer shall designate such officers as may be necessary to assist NAPRO in the proper discharge of its functions under this Act.

(2) The supervising officer shall issue to every officer an identity card which shall—

- (a) display a recent photograph of the officer;
- (b) bear the officer's signature and that of the supervising officer; and
- (c) state its validity period.

(3) (a) Subject to paragraph (b), in the exercise of any power under this Act in relation to another person, an officer shall produce his identity card for the other person's inspection before exercising the power.

(b) Where it is not practicable to comply with paragraph (a), the officer shall produce his identity card for the other person's inspection at the first reasonable opportunity.

(4) Every officer shall, if so requested by the supervising officer or where he leaves the NAPRO, forthwith surrender his identity card.

7. Powers of officers

(1) For the purpose of ensuring compliance with this Act, an officer may—

- (a) at a reasonable time, enter any land, factory or other premises where a regulated product is cultivated, produced, processed, stored, sold, or otherwise dealt with, and—
 - (i) carry out any search, and may for that purpose break open and search any container, receptacle or enclosed place;
 - (ii) take samples of a regulated product for analysis or testing purposes;
 - (iii) collect relevant data;
 - (iv) effect quality control of the regulated product;
 - (v) make surveys or plans of the land or premises; or
 - (vi) inspect any record, book or document;
- (b) seize and detain any regulated product where he has reasonable ground to suspect that the product has been or is being cultivated, produced, processed, stored, sold or otherwise dealt with in contravention with this Act;
- (c) require any person in charge of an activity regulated by this Act to submit to it any relevant document, book or record;
- (d) take notes, make copies or take extracts of, or take photographs, of items submitted pursuant to paragraph (c);

- (e) direct any person in charge of an activity regulated by this Act to take any specific step within a specified delay;
- (f) carry out an investigation, swear an information and conduct a prosecution with respect to any offence under this Act; and
- (g) take such other measures as the circumstances may require.

(2) (a) An officer shall not enter any dwelling house for the purpose of carrying out any of his functions or exercising any of his powers under this Act, unless he is authorised to do so by a warrant from a Magistrate.

(b) A Magistrate shall not grant a warrant under paragraph (a) unless he is satisfied that the officer has reasonable grounds for requiring entry to the dwelling house.

(3) An officer who seizes a regulated product shall, as soon as is practicable, notify the person whom he reasonably suspects of having contravened this Act of the reason for the seizure.

(4) An officer who seizes a regulated product of a perishable nature may destroy or otherwise dispose of it where, in his opinion—

- (a) the destruction or disposal of the product is urgently required; and
- (b) it is not reasonably practicable to preserve the product.

(5) An officer shall, unless it is not reasonably practicable to do so, forthwith inform the person, whom he reasonably suspects of having contravened this Act, of any decision taken in accordance with subsection (4).

PART III – REGISTRATION AND LICENSING

8. Application for licence

(1) Subject to subsection (2), no person shall, without a licence—

- (a) operate as a cultivator;
- (b) operate as a producer;
- (c) kill an animal to obtain meat for sale;
- (d) construct, operate or maintain a slaughterhouse;
- (e) sell, prepare, prepack, process or store meat or meat products;
- (f) construct, operate or maintain a place for the preparation, pre-packing, processing, storage or sale of meat or meat products;
- (g) sell or supply raw hides or skins to tanneries;
- (h) operate as a venison dealer or a venison retailer; or
- (i) sell game venison during the close season.

(2) (a) Subsection (1) (c), (d) and (f) shall not apply to the killing of an animal on the occasion of a religious ceremony.

(b) Subsection (1) (c), (e) and (f) shall not apply to the killing of deer as game, or wild pigs.

(3) (a) Any person who intends to carry out an activity specified in subsection (1) shall apply to NAPRO for a licence in such form and manner as it may determine.

(b) Subject to paragraphs (c) and (d), an application under paragraph (a) shall be accompanied by such fee as may be prescribed, and such relevant information and document as NAPRO may require to determine the application.

(c) An application to cultivate tea or tobacco shall be accompanied by documentary proof of the applicant's ownership of the land, or any lease agreement entered into by the applicant in respect of the land where he intends to carry out his activity.

(d) An application by a co-operative society to cultivate tea or tobacco shall be accompanied by documentary proof of its members' ownership of the land, or any lease agreement entered into by the members in respect of the land where the members intend to carry out their activities.

(e) An application for a licence for the purpose of the activity specified in subsection (1) (i) shall be made not later than 7 days before the beginning of the close season.

9. Issue of licence

(1) Subject to subsection (2), NAPRO shall issue a licence where it is satisfied that—

- (a) the applicant is a fit and proper person to whom a licence may be issued;
- (b) the applicant complies with such requirements as may be prescribed and, in the case of an applicant intending to carry out an activity specified in section 8 (1) (c) to (i), the appropriate regulations made under the Meat Act; and
- (c) where applicable, the premises on which the applicant intends to carry out his activity are suitable and conform with the necessary sanitary requirements.

(2) (a) Subject to this subsection, a licence shall be issued on such terms and conditions as NAPRO may determine.

(b) Subject to paragraphs (c) and (d), a licence shall be valid for a period of one year.

(c) A licence to operate as a cultivator of tea or a producer of tea products shall be issued for one contractual tea year.

(d) A licence to operate as a cultivator of tobacco or a producer of tobacco products shall be issued for one contractual tobacco year.

10. Registration

(1) NAPRO shall keep a register of the particulars of every licence.

(2) The register shall be open for inspection at the office of NAPRO on such days and at such time as it may determine.

11. Revocation of licence

NAPRO may revoke a licence where—

- (a) any information given to it by the licensee for the purpose of obtaining the licence was, at the time the information was given, false in any material particular;
- (b) the licensee has, without reasonable excuse, failed to comply with any condition subject to which the licence was issued, or with any requirement under this Act;
- (c) the licensee is convicted of an offence under this Act;
- (d) the licensee is convicted of an offence involving fraud or dishonesty;
- (e) the licensee ceases to carry on business in accordance with this Act;
- (f) the premises to which the licence relates cease to be suitable for the purpose for which they were licensed; or
- (g) the licensee otherwise ceases to be a fit and proper person.

12. Authorisation to take over licence

(1) Where the holder of a licence dies or becomes bankrupt or insane, his surviving spouse, heir or representative, as the case may be, may apply for authorisation from NAPRO to carry on the business of that holder for the unexpired period of the licence.

(2) An application under subsection (1) shall be made in such form and manner as NAPRO may determine, and shall be accompanied by any relevant information or document which NAPRO may require.

(3) Where NAPRO is satisfied that the applicant is a fit and proper person to whom such authorisation may be granted, it shall authorise the applicant to carry on the business of that holder of the licence for the unexpired period of the licence on such terms and conditions as it thinks fit.

PART IV – PROVISIONS RELATING TO GAME DEER, WILD PIGS AND VENISON

13. Animal to be presented to abattoir

(1) No person shall sell any deer killed as game, or any wild pig killed, unless the animal—

- (a) (i) is, not later than 24 hours after the killing, presented at the abattoir; and
- (ii) bears the stamp or mark of the Authority; or

- (b) (i) is, not later than 24 hours after the killing, presented at a slaughterhouse in respect of which a licence has been issued; and
- (ii) bears the mark or stamp of that slaughterhouse.

(2) The Authority or the person holding a licence to operate a slaughterhouse shall mark or stamp the animal where it or he is satisfied that the meat of the animal is fit for human consumption.

14. Dealing in venison

(1) No venison dealer shall, except with the approval of NAPRO, sell venison to any person other than to a venison retailer.

(2) No venison retailer shall buy venison except from a venison dealer.

(3) No person shall—

- (a) without lawful authority or reasonable excuse, have in his possession game venison during the close season;
- (b) where he is a venison dealer or retailer, have venison at any place other than his place of business or a place approved by NAPRO.

PART V – CONTRACTS AND RECORDS

15. Contract

(1) Where a cultivator intends to supply green leaf or leaf tobacco to a producer, the cultivator and the producer shall enter into a contract in such form and manner as may be prescribed.

(2) Every *métayer* shall enter into a contract, in such form as may be prescribed, with the cultivator on whose land he cultivates tea.

(3) A contract shall be drawn up in 3 originals and forwarded by the parties to NAPRO for registration.

(4) NAPRO shall, after registering a contract, keep one original for record purposes and return the other originals to the parties.

(5) Except with the written authorisation of NAPRO—

- (a) no contract shall be made for a period exceeding one year;
- (b) no tea contract shall be entered into for any crop year after 15 August in that contractual tea year;
- (c) no tobacco contract shall be entered into for any crop year after 15 April in that contractual tobacco year;
- (d) every contract entered into for any crop year shall be forwarded to NAPRO for registration not later than 31 May, in the case of a tobacco contract, and 31 August, in the case of a tea contract, in the respective contractual years; and

- (e) no new contract shall be entered into before the expiry of an existing one.

16. Keeping of records

Every person who has been issued with a licence shall keep a record of his activities in such form and manner as NAPRO may determine.

17. Submission of returns

(1) NAPRO may request a producer to submit his returns for any contractual year in such form and manner as it may determine.

(2) Where a producer fails to submit returns under subsection (1), NAPRO may remove his name from the register.

PART VI – IMPORT AND EXPORT

18. Import and export requirements

(1) (a) Any person who intends to import or export, or causes to be imported or exported, a regulated product shall apply for clearance from NAPRO in such form and manner as it may determine.

(b) An application under subsection (1) shall be accompanied by such fee as may be prescribed, and by such information or document as may be required by NAPRO.

(2) NAPRO may, in its discretion and having regard to—

- (a) the purpose of the importation or exportation;
- (b) the quantity and type of regulated product proposed to be imported or exported;
- (c) the country of origin of the regulated product;
- (d) whether the applicant is a fit and proper person; and
- (e) such other relevant consideration,

give an applicant clearance to import or export a regulated product.

19. Duty of notification of arrival

(1) Any person who imports, or causes to be imported, any regulated product shall notify the arrival of such importation to NAPRO.

(2) Where an officer has reasonable grounds to believe that a regulated product has been imported in breach of the terms and conditions of a clearance, he may—

- (a) seize and detain such regulated product; and
- (b) take such measures as are appropriate under this Act.

PART VII – ARBITRATION OF DISPUTES

20. Arbitration of disputes

(1) Where a dispute arises in relation to a contract, a party to the dispute may, not later than 21 days after the dispute arose, refer it to the supervising officer.

(2) On receipt of a notice under subsection (1), the supervising officer shall set up an Arbitration Committee comprising 3 public officers, not below the rank of Assistant Secretary or equivalent rank, to hear and determine the dispute.

(3) An officer shall not be eligible to sit on the Arbitration Committee.

(4) Any party to a dispute may be assisted at the hearing by a law practitioner or a technical expert.

(5) The decision of the Arbitration Committee on the dispute referred to it under subsection (1) shall—

- (a) be in writing;
- (b) set out the reasons for the decision; and
- (c) be communicated to every interested party.

(6) Where a dispute is resolved by an agreement, the Arbitration Committee shall—

- (a) record the agreement in writing; and
- (b) cause the agreement to be signed by the parties to the dispute.

(7) Any party who is aggrieved by a decision of the Arbitration Committee may appeal against the decision to the Supreme Court, by way of judicial review.

PART VIII – ENFORCEMENT

21. Appeals

(1) Any person who is aggrieved by—

- (a) any decision of NAPRO;
- (b) a decision of an officer to destroy or dispose of a regulated product of a perishable nature pursuant to section 7 (5),

may appeal against that decision to the Minister within 21 days of him being notified of the decision, in such form and manner as the Minister may determine.

(2) The Minister shall as soon as possible determine the appeal and forthwith inform the person accordingly.

22. Offences

(1) Any person who—

- (a) in respect of an application for a licence, clearance or authorisation under this Act, gives any information, or submits any document, which is false or misleading in a material particular;
- (b) obstructs an officer in the exercise of his powers under this Act;
- (c) except in relation to or on the occasion of a religious ceremony, breeds or fattens an animal and by way of sale, gift or otherwise, gives to another person, other than to the Authority or a person who has been issued with a licence under this Act to operate a slaughterhouse, that animal for killing for meat;
- (d) without reasonable excuse, fails to comply with a direction or requirement or an order made under this Act; or
- (e) otherwise contravenes this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) In any prosecution for an offence under this Act, the Court may—

- (a) forfeit any regulated product which is the subject matter of that offence, or any article used in connection with the commission of such offence;
- (b) order the accused party to destroy such regulated product or article within a specified delay.

(3) Where NAPRO is not satisfied that any regulated product or article referred to in subsection (2) has been destroyed within the specified delay, it may apply to the Court for an order authorising it to destroy such product or article.

(4) All expenses reasonably incurred by NAPRO pursuant to an order of the Court under subsection (3) shall be recoverable from the person against whom an order was made under subsection (2) (b).

23. Authorities to assist and co-operate

(1) NAPRO may request the assistance of the police, a public authority or a statutory corporation in the performance of its functions and in the exercise of its powers under this Act.

(2) The police, a public authority or statutory corporation to which a request has been made under subsection (1) shall provide such facilities and assistance as are necessary.

PART IX – MISCELLANEOUS

24. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide—

- (a) for the levying of fees;
- (b) for the fixing of prices of regulated products;
- (c) for the amendment of the Schedules;
- (d) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 6 months.

25. – 28. —

FIRST SCHEDULE

[Section 2]

REGULATED PRODUCTS

Meat and meat products

Tea and tea products

Tobacco and tobacco products

SECOND SCHEDULE

[Section 2]

RELIGIOUS CEREMONIES

Akika

Baharia Puja

Eid-UI-Adha

Kali Puja
