

Chapter 400.

Palm Oil Industry Stabilization Funds Act 1983.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 400.

Palm Oil Industry Stabilization Funds Act 1983.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Palm Oil Industry Stabilization Funds Act 1983,

Being an Act to provide for the establishment of stabilization funds in the palm oil industry and for their administration and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments* it is declared that this Act relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Board**” means the Palm Oil industry Stabilization Funds Board of Management established under Section 5;

“**bounty**” means a bounty payable under Section 25;

“**estate holder**”, in relation to a palm oil scheme, means—

- (a) the company which is the principal developer of the oil palm scheme; and
- (b) any person, who harvests oil palm fresh fruit bunch from an area of ground exceeding 20 ha, or from areas of ground exceeding in total 20 ha, and who sells oil palm fresh fruit bunch to the processing company on that oil palm scheme;

“**levy**” means the rate of a levy payable under Section 24;

“**managers**” means the firm of public accountants appointed as managers under Section 18;

“member” means a member of the Board;

“oil palm scheme” means—

- (a) the Biala Oil Palm Scheme; and
- (b) the Hoskins Oil Palm Scheme; and
- (c) the Higaturu Oil Palm Scheme; and
- (d) such other oil palm schemes designated by the Minister by notice in the National Gazette as oil palm schemes for the purposes of this Act;

“Oil Palm Growers’ Association” means, in relation to an oil palm scheme, any association or group of small-holders which, in the opinion of the Minister, represents the small-holders of that oil palm scheme;

“person affected by the stabilization fund” means—

- (a) in the case of a stabilization fund established under Section 3(a)—
an estate holder; and
- (b) in the case of a stabilization fund established under Section 3(b)—
a small-holder,

on the palm scheme in respect of which the stabilization fund was established;

“small-holder” means a person who harvests oil palm fresh fruit bunch from an area of ground not exceeding 20 ha;

“stabilization fund” means a stabilization fund established under Section 3;

“this Act” includes the regulations.

PART II. – ESTABLISHMENT OF STABILIZATION FUNDS.

3. ESTABLISHMENT OF FUNDS.

The Minister may, after due consideration in each case of the financial commitments and obligations of the oil palm industry, by notice in the National Gazette—

- (a) after consultation with the Palm Oil Producers' Association—order the establishment, with effect from a specified date, of a stabilization fund for the estate holders of a particular oil palm scheme; and
- (b) after consultation with the Oil Palm Growers' Association for a particular oil palm scheme—order the establishment, with effect from a specified date, of a stabilization fund for the small-holders of that oil palm scheme.

4. PURPOSE OF FUNDS.

The purpose of the establishment of stabilization funds is, by a system of imposition of levies and payment of bounties, to ensure that there is long term income equalization for oil palm growers despite fluctuations of world market prices.

PART III. – PALM OIL INDUSTRY STABILIZATION FUNDS BOARD OF MANAGEMENT.

5. ESTABLISHMENT OF THE BOARD.

(1) The Palm Oil Industry Stabilization Funds Board of Management is hereby established.

(2) The Board–

- (a) is a corporation; and
- (b) has perpetual succession; and
- (c) shall have a seal; and
- (d) has power to enter into contracts; and
- (e) may sue and be sued in its corporate name.

6. CONSTITUTION OF THE BOARD.

(1) The Board shall consist of–

- (a) the Departmental Head *ex officio* or his nominee, who shall be Chairman; and
- (b) in respect of each stabilization fund established under this Act, one person to represent the interests of the persons affected by the stabilization fund appointed by the Minister, by notice in the National Gazette, from a panel of four names submitted by–
 - (i) in the case of a stabilization fund established under Section 3(a)– the Palm Oil Producers’ Association; and
 - (ii) in the case of a stabilization fund established under Section 3(b)– the Oil Palm Growers’ Association,

for the oil palm scheme in respect of which the stabilization fund was established.

(2) The members shall be appointed for a period not exceeding three years and are eligible for reappointment.

(3) The members shall, from among their own number appoint a Deputy Chairman who may, where the Chairman is unable to act–

- (a) exercise all or any of the powers; and
- (b) perform all or any of the functions,

of the Chairman.

(4) Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of office of members are as determined by the Prime Minister from time to time.

7. LEAVE OF ABSENCE.

The Chairman may grant leave of absence to a member on such terms and conditions as he determines.

8. DECLARATION OF OFFICE.

(1) Before entering on the duties of his office, a member shall make the Declaration of Office provided for by the *Constitution*.

(2) The Declaration of Office may be made by a member before the Minister or a person appointed by the Minister for the purpose.

9. VACATION OF OFFICE.

(1) If a member—

- (a) dies; or
- (b) becomes permanently incapable of performing his duties; or
- (c) resigns his office by writing under his hand addressed to the Minister; or
- (d) absents himself from three consecutive meetings of the Board without the written consent of the Chairman; or
- (e) fails to comply with the provisions of Section 11; or
- (f) becomes of unsound mind as that expression is used in any law; or
- (g) is convicted of an offence punishable under a law by death or imprisonment for one year or longer, and as a result of the conviction is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment, or is under bond to appear for sentence if called on,

the Minister shall terminate his appointment.

(2) The Minister may, at any time, by written notice, advise a member of his intention to terminate the appointment of the member for inability, inefficiency, incapacity or misbehaviour.

(3) If the member referred to in Subsection (2) fails within 14 days of receipt of the notice referred to in that subsection to reply by written notice to the satisfaction of the Minister, his appointment is terminated.

10. MEETINGS OF THE BOARD.

(1) The Board shall meet at such times and places as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs.

(2) The Chairman shall, if requested to do so by not less than three members, call a meeting of the Board as soon as practicable after receiving the request.

(3) At a meeting of the Board—

- (a) a quorum is three; and
- (b) the Chairman or Deputy Chairman shall preside and in the absence of both the Chairman and Deputy Chairman the members present shall elect a Chairman from among their own number; and
- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
- (d) the person presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(4) The Board shall cause minutes of its meetings to be kept, and shall forward copies to the Minister.

(5) The exercise or the performance of any function of the Board shall not be invalidated by reason only of a vacancy in the membership of the Board.

(6) Subject to this Act, the procedures of the Board are as determined by the Board.

11. DISCLOSURE OF INTEREST BY MEMBERS.

(1) A member of the Board, who is directly or indirectly interested in a contract made or proposed to be made or under consideration by the Board, otherwise than as a member and in common with the other members of an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Board with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.

12. INDEMNITY OF MEMBERS OF THE BOARD.

A member is not personally liable for any act of the management committee, or of a member acting as such, done in good faith.

13. FUNCTIONS OF THE BOARD.

The functions of the Board are—

- (a) to establish and administer the stabilization funds as provided by this Act; and
- (b) to advise the Minister on all matters concerning the palm oil industry relating to the stabilization funds; and

- (c) liaise between the Minister and the small-holders or estate holders, as the case may be, on any matters relating to a stabilization fund; and
- (d) to consult with the Minister in connection with the amounts of levy to be imposed and bounty to be granted; and
- (e) such other functions as are required by this Act.

14. ANNUAL REPORTS.

(1) The Board shall, as soon as practicable after 31 December in each year, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in a form approved by the Minister.

(2) The reports and statements referred to in Subsection (1) shall include details of—

- (a) all payments made into the stabilization funds during the year; and
- (b) all payments made out of the stabilization funds during the year; and
- (c) all investments made during the year; and
- (d) the total income received from investments during the year; and
- (e) the total assets of the stabilization funds; and
- (f) such other information as the Board considers relevant or as the Minister directs to be included.

(3) The Minister shall cause the reports and financial statements furnished to him under this section to be laid before the Parliament at the first meeting of the Parliament after their receipt by the Minister.

PART IV. – THE SERVICE OF THE BOARD.**15. APPOINTMENT OF OFFICERS.**

(1) The Board may appoint to be officers of the Board such persons for such respective periods as it thinks fit and necessary for the purposes of the Board.

(2) The officers of the Board constitute the Service of the Board.

(3) Subject to the *Salaries and Conditions Monitoring Committee Act 1988* and to this Part and to the regulations, officers hold office on such terms and conditions as the Prime Minister determines.

(4) If an officer appointed under this section was, immediately before his appointment, an officer of the Public Service, his service as an officer of the Board shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of–

(a) leave of absence on the ground of illness; and

(b) furlough or pay instead of furlough (including pay to dependants on the death of the officer).

(5) The provisions of the *Public Services (Management) Act 1995* relating to leave to serve under other Acts apply in relation to officers in the Service of the Board as if they had been specifically included in these provisions.

16. REGULATIONS FOR THE SERVICE OF THE BOARD.

The regulations may make provision in relation to the Service of the Board, and, in particular may–

(a) prescribe the terms and conditions of appointment of officers; and

(b) make provision for a superannuation or retirement benefits scheme to provide benefits for the officers of the Board or for the dependants of officers of the Board on retirement, resignation, retrenchment or death.

17. TEMPORARY AND CASUAL EMPLOYEES.

(1) The Board may appoint such temporary and casual employees as it thinks necessary for the purposes of this Act.

(2) Employees appointed under Subsection (1), shall be employed on such terms and conditions as the Board, from time to time, fixes.

18. MANAGERS.

(1) The Board may, after consultation with, and with the written approval of, the Minister, appoint a firm of Registered Public Accountants as defined in the *Accountants Act 1996*–

(a) to provide service to the Board; or

- (b) to manage a stabilization fund on behalf of the Board in accordance with this Act.
- (2) The remuneration of the managers shall—
 - (a) be as agreed between the managers and the Board and approved by the Minister; and
 - (b) be a cost of administering the stabilization fund.
- (3) Managers appointed under this section are not officers of the Board for the purposes of this Act.

PART V. – STABILIZATION FUNDS.**19. STABILIZATION FUNDS.**

(1) Where the Minister has ordered the establishment of a stabilization fund under Section 3, the Board shall establish the stabilization fund with effect from the date specified in the order.

(2) The stabilization fund shall be managed as prescribed by the Board or by the managers on behalf of the Board but is not an asset of the Board.

(3) A person is not entitled, whether he has paid any amount of levy or not, to any interest in a stabilization fund and shall not be entitled to receive any payment, or receive any benefit, from a stabilization fund except in accordance with this Act.

20. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.

The *Public Finances (Management) Act 1995* applies to and in relation to the Board subject to the exceptions and modifications specified in Schedule 1.

21. PAYMENTS INTO A FUND.

(1) Subject to Subsection (2) there shall be paid into a stabilization fund all money–

- (a) received from the collection of the levy applicable to that stabilization fund; and
- (b) received as interest from money standing to the credit of that stabilization fund invested under Section 23.

(2) The Board or the managers may retain such money from the collection of the levy as they consider necessary for efficient day to day operations in connection with the management of the stabilization fund.

22. PAYMENTS OUT OF A FUND.

(1) There shall be paid out of a stabilization fund–

- (a) all amounts of advances authorized under Section 28; and
- (b) all amounts of bounty payable under Section 25; and
- (c) the costs of administering the stabilization fund as specified in this Act or as approved by the Minister or as prescribed; and
- (d)¹ all repayments approved under Section 22A.

(2) Money shall not be expended from a stabilization fund other than for the purposes specified in Subsection (1).

¹ Section 22(1)(d) added by *Palm Oil Industry Stabilization Funds (Amendment) Act 1992*, s1.

22A. APPROVED PAYMENTS.

²(1) For the purposes of this section—

“**registered small-holders**” in relation to a stabilization fund, means the persons registered by the estate-holder as being (or having been) small-holders on the oil palm scheme in respect of which the stabilization fund was established, at any time on or after the date of establishment of the fund;

“**three quarters absolute majority**” means affirmative votes equal to not less than three quarters of the total number of registered small-holders.

(2) Where the Board is of the opinion that a substantial number of registered small-holders in an oil palm scheme wish repayment of monies to be made from a stabilization fund for that scheme, the Board may arrange for the registered small-holders to vote on the matter in a manner approved by the Minister.

(3) Where, on a vote taken under Subsection (2), a three quarters absolute majority of registered small-holders vote that the balance of monies in the stabilization fund (or any part of such balance) be repaid to the registered small-holders, the Board may approve that the balance of monies in the stabilization fund (or any part of such balance) be so repaid in accordance with this section.

(4) Repayment of monies approved under Subsection (3) shall be made to a registered small-holder in proportion to the amount of oil palm fresh fruit bunch sales made by that registered small-holder to the estate-holder during the period during which levies were deducted.

23. INVESTMENT OF MONEY STANDING TO THE CREDIT OF A FUND.

Money standing to the credit of a stabilization fund may be invested in any securities approved for the purpose by the Minister responsible for financial matters.

24. IMPOSITION AND COLLECTION OF LEVY.

(1) The Minister may, in relation to a stabilization fund, after consultation with—

- (a) the Minister responsible for financial matters; and
- (b) the Board,

by notice in the National Gazette, publish a schedule of rates of levy imposed on oil palm fresh fruit bunch and specify a date from which the levy is payable.

(2) Different rates of levy may be imposed under Subsection (1) in relation to different purchase prices for oil palm fresh fruit bunch.

(3) Where a stabilization fund has been established under Section 3, a person who purchases oil palm fresh fruit bunch from a person affected by the stabilization fund, shall deduct from the price payable the amount of levy payable in respect of

² Section 22A added by *Palm Oil Industry Stabilization Funds (Amendment) Act 1992*, s2.

that stabilization fund at the rate which applied on the day on which the oil palm fresh fruit bunch was purchased.

(4) A person who has deducted an amount of levy under Subsection (3) must at least once in each month, and at such other intervals as the Board requires, remit to the Board or to managers in the prescribed manner the amount of levy deducted.

Penalty: A fine not exceeding K1,000.00.

25. BOUNTY.

(1) Subject to—

- (a) the capacity of a stabilization fund to meet the requirements of this section at the relevant time; and
- (b) the approval of the Minister responsible for financial matters,

the Minister may, after consultation with the Board, by notice in the National Gazette, publish a schedule of rates of bounty for oil palm fresh fruit bunch, and specify the date from which the bounty is payable.

(2) Different rates of bounty payable may be specified under Subsection (1) in relation to different purchase prices for oil palm fresh fruit bunch.

26. PAYMENT OF BOUNTY.

(1) Where a stabilization fund has been established under Section 3, a person who purchases, or otherwise acquires, oil palm fresh fruit bunch from a person affected by the stabilization fund shall, as soon as practicable, and to the extent only of money held by him by way of advance under Subsection (2) pay to the seller or supplier, in addition in the purchase price of the oil palm fresh fruit bunch, the amount of bounty, applicable to that stabilization fund, in respect of those oil palm fresh fruit bunch which applied on the day on which they were purchased or acquired.

(2) For the purpose of enabling a person to make payments under Subsection (1), the Minister may, from time to time, in the prescribed manner, on application under Section 28(1), authorize the managers to make advances out of the stabilization fund to that person.

(3) Where the managers are satisfied that an amount of bounty has not been paid as required under Subsection (1) they shall, subject to this section, authorize payment of the bounty to the person to whom, under that subsection, it should have been paid.

27. PURCHASER TO DISPLAY NOTICE OF BOUNTY.

(1) A person who purchases, or otherwise acquires, oil palm nuts from a person affected by a stabilization fund, must—

- (a) have conspicuously displayed on the premises or place at which the oil palm fresh fruit bunch is purchased or acquired a notice showing the

amount of bounty which applies on the day on which the oil palm nuts are purchased or acquired; and

- (b) take such steps as are necessary to ensure that the amount of bounty is advised to the vendor or supplier before the purchase or acquisition is completed.

Penalty: A fine not exceeding K1,000.00.

(2) It is a defence to a charge of an offence under Subsection (1) if the person charged proves that, on the date on which the offence is alleged to have been committed, he had no reasonable means of complying with the provisions of that subsection.

28. APPLICATION FOR ADVANCE OF BOUNTY.

(1) An application for an advance under Section 26(2) shall be in the prescribed form.

(2) An advance under Section 26(2) shall be accounted for in the manner and at the times prescribed or as the Minister, in any particular case, directs.

PART VI. – MISCELLANEOUS.

29. PROHIBITION AGAINST UNAUTHORIZED PURCHASE OF OIL PALM FRESH FRUIT BUNCH.

A person, other than the processing company of an oil palm scheme developer, who purchases or otherwise acquires oil palm fresh fruit bunch is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

30. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act prescribing all matters that by this Act are required to be prescribed, or which are necessary or convenient to be prescribed, for carrying out and giving effect to this Act and prescribing penalties of fines not exceeding K500.00 for offences against the regulations.

SCHEDULE 1 – EXCEPTIONS AND MODIFICATIONS TO THE *PUBLIC FINANCES (MANAGEMENT) ACT 1995.*

Sect. 20.

Former Provision	Current Provision	Modification
11	51	Not applicable.
13	59	Not applicable.
Former Provision	Current Provision	Modification
11	51	Not applicable.
13	59	Not applicable.