

**A BILL FOR**  
**an**  
**AGRICULTURAL COMMODITIES EXPORT ACT**

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## **A BILL FOR**

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### **AN ACT TO REGULATE THE EXPORT OF AGRICULTURAL COMMODITIES**

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows -

#### **PART 1 - PRELIMINARY**

1. This Act may be cited as the Agricultural Commodities Export Act, 2001
2. In this Act or in any regulations made hereunder unless the context otherwise requires -

“agricultural commodity” means all species of fruit, vegetables, root crops, spices and other plant materials.

“Director” means the Director of Agriculture and Forestry.

“export” means to take a thing or cause it to be sent out of the country by any means of conveyance.

“Inspector” means the Director, any person appointed as an Inspector under this Act or any person appointed as an Inspector under the Plant Quarantine Act, 1981.

“Minister” means the Minister in charge of the Ministry of Agriculture and Forestry or his authorized representative.

“non-commercial” means any consignment of agricultural commodity which is submitted for export and for which the exporter is not expected to receive payment in currency or kind other than the reasonable cost of freight and packing.

“plant material” means all materials of plant origin.

3. This Act shall bind the Crown.

#### **PART 2 - ADMINISTRATION**

4. (1) The authority for administering this Act is conferred on the Minister.  
(2) The Minister may, with the consent of the Privy Council, make regulations to carry out the purposes of this Act and in particular to provide for the following-
  - (a) the manner in which any agricultural commodities are to be prepared, stored and packed for export;

- (b) the registration, control, inspection and conditions of operation of places where agricultural commodities intended for export may be handled, stored or packed;
  - (c) the time and manner of harvesting, inspection, handling, shipping, transporting, possession and disposal of any agricultural commodity;
  - (d) the export, distribution and marketing of agricultural commodities;
  - (e) the appointment, powers and duties of Inspectors;
  - (f) the training and accreditation of Inspectors and staff working in places where agricultural commodities intended for export may be handled, stored or packed;
  - (g) minimum standards of quality in respect of agricultural commodities for export;
  - (h) the materials, method of construction, and dimensions of packages intended for use in the export of agricultural commodities;
  - (i) the markings and fastenings to be applied to packages, cases or containers containing agricultural commodities for export;
  - (j) any fees to be charged under this Act; and
  - (k) any other matter which is required or authorized to be prescribed.
5. (1) The Minister may, by notice published in the Gazette, declare that any agricultural commodity shall not be exported unless it has been examined and approved by an Inspector under this Act.
- (2) No person shall export or attempt to export any agricultural commodity in relation to which the Minister has made an order under subsection (1) of this section which has not been examined and approved by an Inspector.
6. (1) Subject to (4) every person who intends to export any agricultural commodities which are the subject of this Act or any regulation under this Act shall give written notice of such intention to the Director prior to the inspection of such produce by an Inspector.
- (2) Written notice of intention to export agricultural commodities shall be given to the Director in the prescribed form which shall be truthfully completed in all details.
- (3) The Inspector shall record the result of the inspection of the agricultural commodities on the written notice submitted and shall sign the form and return it to the exporter on completion of the inspection of the agricultural commodities to which the form relates.
- (4) Sub-regulations (1) - (3) shall not apply in the case of:

- (a) an accompanied consignment of agricultural commodities exported by air; or
  - (b) a non-commercial consignment of agricultural commodities exported by sea..
7. Every exporter and packer of agricultural commodities shall comply with all instructions of an Inspector relative to the packing of agricultural commodities for export and shall carry out the lawful directions of an Inspector.
8. The Government, and any Inspector, shall not be liable for any loss or damage resulting from the exercise of powers conferred by this Act unless such loss or damage is caused otherwise than in the reasonable exercise of those powers.

### **PART 3 - APPOINTMENT AND DUTIES OF INSPECTORS**

9. (1) The Minister shall appoint from time to time such Inspectors as may be necessary for the purposes of this Act.
- (2) For the purposes of his Act, the Director may from time to time appoint temporary Inspectors, who may be full-time officers of the Ministry of Agriculture and Forestry or persons other than full-time officers of the Ministry of Agriculture and Forestry. If any person appointed as a temporary inspector is a full-time officer of the Ministry of Agriculture and Forestry or civil servant he shall not be entitled to any additional remuneration in respect of his appointment under this subsection.
- (3) The appointment of a temporary Inspector shall lapse when so directed in writing by a duly authorized Inspector; on completion of the task for which he was temporarily appointed; or on a date determined at the time of his appointment.
- (4) Inspectors shall be provided with suitable identification.
- (5) Every Inspector shall act in accordance with the instructions of the Director.
10. (1) An Inspector may certify any shipment of agricultural commodities which he believes meets the requirements of any regulations made under this Act or which comply with the grade or quality standards of the importing country.
- (2) An Inspector may, in the exercise of his duties under this Act -
- (a) open or cause to be opened any package, case or container containing agricultural commodities intended for export;
  - (b) take samples for inspection from any agricultural commodities submitted to him and intended for export;

(c) close, fasten and seal any package, case or container containing agricultural commodities for export in accordance with the requirements of any regulations made under this Act;

(d) mark or label such package, case or container in accordance with the requirements of any regulations made under this Act to indicate that the contents of such package, case or container have been passed as suitable for export;

(e) prohibit the export of agricultural commodities which have not been packed for export in accordance with regulations made under this Act or which do not otherwise comply with the grade or quality standards of the importing country.

#### **PART 4 - OFFENCES AND PENALTIES**

11. Every person commits an offence against this Act who directly or indirectly obstructs, hinders, interrupts, bribes or attempt to bribe, threatens or assaults an Inspector or any assistant of an Inspector in the performance of his duty under this Act. Penalty on conviction is a fine not exceeding \$1000.

12. Any Inspector who -

(a) accepts or solicits a bribe;

(b) wilfully causes damage to the goods of an exporter;

(c) deliberately issues to an exporter or his agent export documentation knowing that the commodity to which the documentation relates does not conform with any condition of this Act or of any regulation made under this Act or of any condition of the importing country;

(d) prepares false documentation relating to goods which are the subject of this Act or who alters export documentation with the intention of deceiving an exporter, his agent or the plant health authority in the importing country;

(e) deserts his duty or otherwise fails to properly discharge his duties,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$5,000 or to dismissal or to imprisonment for a term not exceeding two years or to such fine and dismissal and imprisonment.

13. (1) Any person who -

(a) exports or attempts to export any agricultural commodity contrary to the provisions of any regulation made under the provisions of this Act;

(b) exports or attempts to export any prescribed agricultural commodity which has not been examined and approved by an Inspector;

(c) exports or attempts to export any agricultural commodity which has been harvested prior to the time during which harvesting of that agricultural commodity is permitted under any regulation made under the provisions of this Act;

(d) fails to comply with the or acts in contravention of any provision of this Act or any regulation made thereunder or any order or direction or requirement or condition made or given or imposed by an Inspector,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Any person who is guilty of an offence against this Act or any regulation made thereunder for which no penalty is provided elsewhere than in this section shall be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

## **PART 5 - MISCELLANEOUS**

14. (1) The Fruit Export Act (Cap.116) is repealed.

(2) Subject to subsection (3) all subsidiary legislation made by virtue of the Fruit Export Act is hereby repealed.

(3) The Fruit Export (Vanilla) Regulations 1993 and the Fruit Export (Buttercup Squash) Regulations 1993 shall remain in force insofar as they are not inconsistent with the Act and shall be deemed for all purposes to have made under the provisions of this Act.

Passed in the Legislative Assembly this                      day of                      2001.