

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE COFFEE ACT

CHAPTER 228 OF THE LAWS OF ZAMBIA

CHAPTER 228 THE COFFEE ACT

THE COFFEE ACT

ARRANGEMENT OF SECTIONS

PART I PRELIMINARYPART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II COFFEE BOARD OF ZAMBIAPART II

COFFEE BOARD OF ZAMBIA

The Laws of Zambia

3. Establishment of Board
4. Composition of Board
5. Filling of casual vacancy
6. Secretary
7. Functions of Board
8. Seal of Board
9. Proceedings of Board
10. Disclosure of interest
11. Immunity
12. Prohibition of publication or disclosure of information to unauthorised persons
13. Coffee Licensing Committee
14. Functions of the Coffee Licensing Committee
15. Appeals Classification Committee
16. Functions of the Appeals Classification Committee

PART III PRODUCTION, CURING, CLASSIFICATION, MARKETING AND EXPORT OF
COFFEEPART III

PRODUCTION, CURING, CLASSIFICATION, MARKETING AND
EXPORT OF COFFEE

17. Arabica Coffee to be grown in Zambia
18. Functions of Association
19. Prohibition on growing or curing coffee without a certificate
20. Certificates
21. Application for, renewal and refusal of, certificates
22. Application for certificates by co-operative society

Section

23. Conditions of certificates
24. Register of land planted with coffee, coffee growers and registered curing establishment owners
25. Curing of coffee
26. Classification of coffee
27. Appeals against classification
28. Coffee to be delivered to Association
29. Export of coffee

PART IV DISTINGUISHING MARKSPART IV
DISTINGUISHING MARKS

The Laws of Zambia

30. Approval of distinguishing mark
31. Registration of distinguishing mark
32. Refusal to approve distinguishing mark
33. Register of distinguishing marks
34. Use of distinguishing marks
35. Marking of receptacle

PART V LICENSINGPART V
LICENSING

36. Prohibition in dealing in coffee without a licence
37. Licences
38. Applications for, renewal and refusal of, licences
39. Conditions of licences
40. Register to be kept by licence holder
41. Cancellation of licences
42. Licences held by co-operative society
43. Appeals relating to licences

PART VI FINANCEPART VI
FINANCE

44. Levies
45. Coffee Pool Fund
46. Power to borrow on security of Coffee Pool Fund
47. Financial year

Section

48. Accounts
49. Audit of accounts
50. Annual report

PART VII MISCELLANEOUSPART VII
MISCELLANEOUS

51. Inspectors
52. Powers of inspectors and police officers
53. Inspection of records of Association
54. Cancellation of certificate or licence by court order
55. General penalty
56. Regulations

CHAPTER 228

COFFEE ACT

Act No.24 of 1989
13 of 1994

An Act to establish the Coffee Board of Zambia; to define the functions and powers of the Coffee Board of Zambia and those of the Zambia Coffee Growers Association Limited; to regulate the coffee industry; to control the production and marketing of coffee; and to provide for matters connected with or incidental to the foregoing.

[29th December, 1989

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Coffee Act. Short Title

2. In this Act unless the context otherwise requires- Interpretation
 - "Appeals Classification Committee" means the body constituted by section *fifteen*;

 - "Association" means the Zambia Coffee Growers Association Limited, a company limited by guarantee and registered under the Companies Act; Cap. 388

 - "Board" means the Coffee Board of Zambia established by section *three*;

 - "Chairman" means the person designated chairman of the Board under section *four*;

 - "cherry" means the fresh fruit of the coffee tree;

The Laws of Zambia

"classified coffee" means coffee which has been classified by the Association under section *twenty-six*;

"coffee" means the commodity derived from the fruit of the rubiaceous plant known as the coffee tree, and includes cherry, dried cherry, parchment coffee, cured coffee, roasted coffee and prepared coffee;

"Coffee Licensing Committee" means the Committee constituted under section *thirteen*;

"Committee" means the Coffee Licensing Committee or the Appeals Classification Committee as the case may be;

"crop year" means the period from the 1st April to the 31st March of the following year unless otherwise changed by the Board;

"cured coffee" means coffee beans after removal of dried cherry skin or parchment skin and "cleaning", "clean coffee" or "green coffee" shall be construed accordingly;

"curing" means the process of removing dried cherry skin or parchment skin by mechanical means, for commercial purposes, and "cured" shall be construed accordingly;

"curing establishment" means any place where dried cherry or parchment coffee is cured;

"depulping" means the process of removing the cherry skin by mechanical means and "depulp" shall be construed accordingly;

"dried cherry" means the fruit of the coffee tree dried whole and not depulped;

"licence holder" means a person holding a licence issued under section *thirty-seven*;

"member" means a member of the Board;

"parchment coffee" means coffee after depulping but before curing;

"prepared coffee" means coffee which is brewed for commercial purposes;

"registered coffee grower" means a person holding a coffee growers certificate, issued under section *twenty*;

The Laws of Zambia

"registered curing establishment owner" means a person holding a coffee curing establishment certificate issued under section *twenty*;

"roasted coffee" means cured coffee roasted to any degree whether whole or ground to powder;

"Vice-Chairman" means the person elected Vice-Chairman of the Board under section *four*.

PART II COFFEE BOARD OF ZAMBIA PART II

COFFEE BOARD OF ZAMBIA

3. There is hereby established the Coffee Board of Zambia which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may lawfully do or perform.

Establishment of Board

4. (1) The Board shall consist of the following members:

Composition of Board

- (a) the Permanent Secretary in the Ministry responsible for agriculture, who shall be Chairman;
- (b) not more than seven persons appointed by the Minister of whom-
 - (i) one shall be a representative of the Ministry responsible for finance;
 - (ii) one shall be a nominee of an establishment concerned with research in coffee;
 - (iii) one shall be a nominee of holders of coffee roasting licenses issued under section *thirty-seven*;
 - (iv) four shall be from persons who the Minister thinks should be represented on the Board; and
- (c) five persons appointed by the Association.

(2) There shall be a Vice-Chairman who shall be elected by the Board from amongst its members.

(3) A member referred to in paragraphs (b) and (c) of subsection (1) shall hold office for a period of four years, but shall be eligible for reappointment.

The Laws of Zambia

(4) A member referred to in paragraphs (b) and (c) of subsection (1) may resign upon giving one month's notice in writing to the Minister or Association, as the case may be, and may be removed at any time.

5. Whenever the office of a member becomes vacant before the expiry of the term provided in section *four* the Minister or the Association, as the case may be, may appoint another person to be a member: Filling of casual vacancy

Provided that such other person shall hold office only for the unexpired term of office of the person who vacated the office.

6. The Board may appoint a Secretary to the Board on such terms and conditions as the Board may determine. Secretary

7. (1) The functions of the Board shall be to- Functions of Board

- (a) regulate the coffee industry for the Republic;
- (b) advise the Government on policies and measures relating to the coffee industry;
- (c) promote the sale of coffee;
- (d) encourage the production of good quality coffee;
- (e) implement the Government's policies relating to the coffee industry;
- (f) act as the agent of the Government in matters relating to the coffee industry;
- (g) co-operate, within the framework of any international organization or agreement, for the promotion, control of production, or marketing, of coffee;
- (h) arrange, when so requested by the Government, for the representation of Zambia, on any international organization dealing with coffee, or at any international conference relating to coffee;
- (i) experiment, investigate and conduct research in areas relating to coffee;

The Laws of Zambia

- (j) in consultation with the Association-
 - (i) set out licensing criteria for use by the Coffee Licensing Committee;
 - (ii) lay down conditions for the control of coffee production;
 - (iii) lay down conditions for the propagation of coffee seedlings;
 - (iv) lay down conditions under which Arabica Coffee shall be grown in Zambia;
 - (v) lay down terms and conditions for the importation and sourcing of coffee seed;
 - (vi) establish a coffee classification system;

- (k) carry out such other activities as are necessary or conducive to the better performance of its functions.

(2) The Board may, by directions in writing, and subject to such terms and conditions as it considers necessary, delegate to the Secretary any of its functions under this Act.

8. (1) The seal of the Board shall be such device as may be determined by the Board and may be kept by the Secretary. Seal of Board

(2) The Board may use a wafer or rubber stamp in lieu of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman, and the Secretary or one other person authorised in that behalf by a resolution of the Board.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person authorised in that behalf by a resolution of the Board.

(5) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

9. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure. Proceedings of Board

(2) The Board shall meet for the transaction of business at least once every three months at such places and at such times as the Chairman may decide.

The Laws of Zambia

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairman and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon the giving of shorter notice.

(4) Seven members shall form a quorum at any meeting of the Board.

(5) There shall preside at any meeting of the Board-

(a) the Chairman; or

(b) in the absence of the Chairman, the Vice-Chairman; or

(c) in the absence of the Chairman and the Vice-Chairman, such member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at a meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) Where the member referred to in paragraph (a) of subsection (1) of section *four* is for any reasonable cause unable to attend any meeting of the Board, he may, in writing, nominate another person to attend such meeting in his stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board.

10. (1) If a person is present at a meeting of the Board or of the Coffee Licensing Committee or Appeals Classification Committee at which any matter is the subject of consideration and in which the person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting disclose such interest and shall not, unless the Board or the Coffee Licensing Committee or the Appeals Classification Committee directs, take part in any consideration or discussion of, or vote on, any question touching the matter.

Disclosure of interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

11. No action or other proceedings shall lie or be instituted against any member or member of the Coffee Licensing Committee or the Appeals Classification Committee for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Immunity

12. (1) No person shall, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of, his duties under this Act.

Prohibition of publication or disclosure or information to unauthorised persons

(2) Any person who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one thousand two hundred and fifty penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be liable, upon conviction, to a fine not exceeding one thousand two hundred and fifty penalty units or to imprisonment for a term not exceeding three years, or to both.

(As amended by Act No. 13 of 1994)

13. (1) There is hereby constituted the Coffee Licensing Committee which shall consist of-

Coffee Licensing Committee

- (a) a Chairman who shall be a member of the Board and who shall be elected by the Board;
- (b) three members of the Board who shall be appointed by the Chairman of the Committee after consulting the Chairman of the Board; and
- (c) three persons holding certificates issued under section *twenty* who shall be elected annually by the members of the Association.

The Laws of Zambia

(2) A member of the Committee, other than the Chairman of the Committee, shall hold office for one year.

(3) The Chairman of the Committee shall hold office for a period of two years and shall be eligible for re-election for another period of one year.

(4) A member of the Committee may resign upon giving one month's notice in writing to the Board and may be removed by the Board at any time.

(5) Subject to any specific or general direction of the Board the Committee may regulate its own procedure.

14. (1) Subject to the control and directions of the Board, the functions of the Committee shall, on behalf of the Board be to-

Functions of the
Coffee Licensing
Committee

- (a) issue certificates and licenses in accordance with this Act;
- (b) approve distinguishing marks;
- (c) maintain a register of land planted with coffee, registered coffee growers, registered curing establishment owners and distinguishing marks.

(2) The Board may delegate to the Committee such other of its functions as it may consider necessary.

15. (1) There is hereby constituted the Appeals Classification Committee which shall consist of not more than five members who shall be appointed by the Board.

Appeals Classification
Committee

(2) A member of the Committee shall hold office for one year.

(3) A member of the Committee may resign upon giving one month's notice in writing to the Board and may be removed by the Board at any time.

(4) Subject to any specific or general direction of the Board the Committee may regulate its own procedure.

The Laws of Zambia

16. (1) The functions of the Committee shall, on behalf of the Board, be to hear and determine appeals from aggrieved registered coffee growers on the classification, by the Association, of their coffee.

Functions of the Appeals Classification Committee

(2) The Committee may request the Association to submit to it any samples or information the Committee considers necessary to help it determine the appeal.

(3) The Committee may-

- (a) confirm the classification made by the Association; or
- (b) set aside the classification made by the Association and direct the Association to re-classify the coffee.

PART III PRODUCTION, CURING, CLASSIFICATION, MARKETING AND EXPORT OF COFFEE
PART III

PRODUCTION, CURING, CLASSIFICATION, MARKETING AND EXPORT OF COFFEE

17. (1) No coffee other than Arabica Coffee shall be grown in Zambia.

Arabica Coffee to be grown in Zambia

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable, upon conviction, to the general penalty imposed under section *fifty-five*.

18. Subject to the general and specific control and direction of the Board, the Association may-

Functions of Association

- (a) regulate the production and curing of coffee;
- (b) collect, store, process, pack and market coffee;
- (c) negotiate, on behalf of registered coffee growers, the best price for coffee;
- (d) pay registered coffee growers for coffee sold by the Association on their behalf; and
- (e) appoint agents to assist the Association in the performance of any of its functions.

19. No person shall grow or cure coffee without a valid certificate issued under this Part.

Prohibition on growing or curing coffee without a certificate

20. Subject to the other provisions of this Act, the Coffee Licensing Committee may issue the following certificates: Certificates

- (a) *a coffee growers certificate* which shall authorise the holder to grow coffee in such area or areas as may be specified in the certificate;
- (b) *a coffee curing establishment certificate* which shall authorise the holder to cure such description of coffee, by means of such machinery, and in such manner, as may be specified in the certificate.

21. (1) Every application for a certificate or renewal of a certificate shall be made to the Coffee Licensing Committee in the prescribed form and shall be accompanied by the prescribed fee. Application for, renewal and refusal of, certificates

(2) Where an application is made for a renewal of a certificate, the Coffee Licensing Committee may on application of the applicant, vary the conditions specified in the certificate.

(3) The Coffee Licensing Committee may refuse to issue a certificate to an applicant if it is satisfied that the applicant or a person employed by the applicant does not have sufficient knowledge or experience in the growing of coffee or the curing of coffee, as the case may be.

(4) The Coffee Licensing Committee may refuse to issue a coffee curing establishment certificate if the curing establishment is not properly equipped or if the installed machinery is not adequate or suitable for processing coffee to the standards set by the Association or is not in conformity with the laws relating to factories.

22. (1) Where an application for a certificate or renewal of a certificate is made by a co-operative society, registered under the Co-operative Societies Act, it shall submit to the Coffee Licensing Committee together with the prescribed form and fee- Application for certificates by co-operative society
Cap. 397

- (a) a schedule specifying the names of the members of the co-operative society; and
- (b) if the application relates to growing coffee, the description and acreage of the land on which each member may plant coffee;

and each member shall be deemed to be registered as a coffee grower or an owner of a curing establishment except that a certificate shall be issued to the co-operative society.

23. A certificate issued under this Part shall be subject to the following conditions- Conditions of certificates

- (a) unless earlier cancelled it shall remain in force-

The Laws of Zambia

- (i) in the case of a first certificate issued to a person who is planting coffee for the first time, for three years following the date of issue and shall thereafter be renewable annually;
- (ii) in the case of a certificate issued to a person who already has coffee under cultivation and which is mature, for one year following the date of issue and shall thereafter be renewable annually;
- (iii) in the case of a coffee curing establishment certificate, for one year following the date of issue and shall thereafter be renewable annually;
- (b) it shall not be transferable;
- (c) the holder shall not carry on any business related to coffee on any premises or place except those stipulated in the licence; and
- (d) such other conditions as the Minister may, by statutory order, impose.

24. (1) The Coffee Licensing Committee shall maintain a register of all land planted with coffee, registered coffee growers and registered curing establishment owners.

Register of land planted with coffee, coffee growers and registered curing establishment owners

(2) For the purpose of the register a registered coffee grower and a registered curing establishment owner shall, upon request in writing by the Committee, submit to the Committee, a return containing such particulars as the Minister may, by statutory order, prescribe and the particulars shall be entered in the register.

(3) Any registered coffee grower or registered curing establishment owner who-

- (a) fails or refuses to make a return when requested to do so; or
- (b) makes or causes to be made a return which to his knowledge is false in any particular;

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units.

(As amended by Act No. 13 of 1994)

25. (1) No person shall cure coffee in any place other than in a curing establishment.

Curing of coffee

(2) Any person who intends to operate a curing establishment shall obtain the authority of the Coffee Licensing Committee before he obtains any machinery for that purpose:

The Laws of Zambia

Provided that the Minister may, by statutory order, prescribe the conditions under which any machinery obtained, before the commencement of this Act, shall continue to be used and shall prescribe a time period in which-

- (a) the conditions shall be complied with; or
- (b) if the conditions cannot be complied with, the machinery shall no longer be used.

(3) Any person who contravenes subsections (1) and (2) shall be guilty of an offence and shall be liable, upon conviction, to the general penalty imposed under section *fifty-five*.

(4) Every curing establishment that buys or receives dried cherry or parchment coffee from any person shall report to the Association-

- (a) the place where the coffee was grown; and
- (b) the quantity of coffee received.

26. (1) The Association or its authorised agents shall be the sole classifiers of coffee in Zambia. Classification of coffee

(2) Every registered curing establishment owner shall send or cause to be sent to the Association, for purposes of classification, a sample of the coffee cured by him.

(3) The Association shall, in accordance with the classification system established by the Board, classify all coffee samples sent for classification under subsection (2).

(4) The Association shall, within fourteen days after receiving the coffee samples for classification, classify the coffee and notify the registered coffee grower and the registered curing establishment owner of the class in which the coffee has been classified.

27. Any registered coffee grower who is not satisfied with the class in which his coffee has been classified may, within twenty-one days of receipt of the notification given under section *twenty-six*, appeal in writing against the classification to the Appeals Classification Committee. Appeals against classification

28. (1) No registered coffee grower shall sell, deliver for sale or otherwise dispose of any cured coffee to any person other than to the Association. Coffee to be delivered to Association

(2) No person, other than the Association, shall market any cured coffee processed in Zambia.

(3) Subject to the other provisions of this Act, the Association shall, on such terms and conditions as it may lay down in regard to handling and delivery, accept all classified coffee and sell it on behalf of a registered coffee grower.

(4) Nothing in subsection (2) shall apply to-

(a) the purchase or acquisition by a licence holder of cured coffee from the Association;

(b) the purchase or acquisition of roasted coffee from a retail seller for consumption.

(5) Any person who contravenes subsections (1) or (2) shall be guilty of an offence and shall be liable, upon conviction, to the general penalty imposed under section *fifty-five*.

29. The Association or its authorised agents shall be the sole exporters of coffee. Export of coffee

PART IV DISTINGUISHING MARKSPART IV

DISTINGUISHING MARKS

30. Every registered coffee grower shall submit a copy of his distinguishing mark to the Coffee Licensing Committee for approval. Approval of distinguishing mark

31. Where the Coffee Licensing Committee approves a mark submitted to it under section *thirty*, it shall register the mark and shall issue to the registered coffee grower a certificate in the prescribed form. Registration of distinguishing mark

32. (1) The Coffee Licensing Committee may refuse to approve a mark and may require the applicant to submit an alternative mark for its approval. Refusal to approve distinguishing mark

(2) Where the Committee refuses to approve a distinguishing mark it shall give reasons for so refusing.

The Laws of Zambia

(3) Any person aggrieved by a decision of the Committee may appeal to the Board who may either confirm the decision of the Committee or request the Committee to reconsider the submission made by the applicant.

33. (1) The Coffee Licensing Committee shall keep a register of approved distinguishing marks. Register of distinguishing mark

(2) The Board shall publish in the Gazette details of all registered distinguishing marks.

34. (1) No person, other than the holder of a certificate issued in relation to that distinguishing mark, shall use that mark. Use of distinguishing mark

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to the general penalty provided under section *fifty-five*.

35. (1) A registered coffee grower shall not part with possession of any coffee unless each bag or receptacle in which the coffee is contained has been clearly marked on it the registered distinguishing mark of the registered coffee grower. Marking of receptacle

(2) For the purposes of this section, a bag or receptacle in which coffee is contained shall be clearly marked if the registered distinguishing mark is either-

- (a) made on a cloth tag firmly sewn on the bag or receptacle in letters or figures which are easily distinguishable; or
- (b) stencilled on the bag or receptacle in letters or figures which are easily distinguishable.

PART V LICENSINGPART V

LICENSING

36. Subject to section *twenty-eight*, no person shall buy, roast, warehouse, export or otherwise deal in any coffee, for commercial purposes, without a valid licence issued under this Part. Prohibition in dealing in coffee without a licence

37. Subject to the other provisions of this Act, the Coffee Licensing Committee may issue the following licences: Licences

- (a) *a coffee dealer's licence* which shall authorise the holder, being an authorised agent of the Association, to purchase, sell or otherwise deal in coffee or coffee of a description specified in the licence;
- (b) *a coffee roasting licence* which shall authorise the holder to roast coffee for wholesale;
- (c) *a coffee warehouse licence* which shall authorise the holder to conduct the business of a coffee warehouseman;
- (d) *a seedling propagating licence* which shall authorise the holder to propagate coffee seedlings.

38. (1) Every application for a licence, or a renewal of a licence, shall be made to the Coffee Licensing Committee in the prescribed form and shall be accompanied by the prescribed fee. Applications for, renewal and refusal of, licences

(2) The Committee may refuse to issue a coffee roasting licence or a coffee warehouse licence if the works or premises are not properly equipped or if the installed machinery is not adequate or suitable for producing roasted coffee of good quality, or the premises are not in conformity with the law relating to factories.

(3) The Committee shall not issue a licence to any person if it is satisfied that the applicant or a person employed by him does not have sufficient knowledge or experience in the coffee trade.

39. A licence issued under this Part shall be subject to the following conditions: Conditions of Licences

- (a) unless earlier cancelled, it shall remain in force for one year following the date of issue;
- (b) it shall not be transferable;
- (c) the holder shall not carry on any business related to coffee on any premises or place except those stipulated in the licence; and
- (d) such other conditions as the Minister may, by statutory order, impose.

40. (1) A licence holder shall at all times maintain, on his premises, a register in which shall be recorded, as applicable to his licence- Register to be kept by licence holder

- (a) all purchases, sales or movement of coffee;
- (b) the quantity of coffee processed;
- (c) the name and address of the owner, vendor or purchaser, of the coffee;

(d) the date of each transaction.

(2) A register maintained in accordance with subsection (1) shall be open to inspection, at all reasonable times, by the Board or by an inspector appointed by the Board.

(3) Any licence holder who contravenes subsection (1) or (2) shall be guilty of an offence and liable, upon conviction, to a fine not exceeding five thousand penalty units.

(As amended by Act No. 13 of 1994)

41. (1) Subject to subsection (2) the Coffee Licensing Committee may cancel a licence issued under this Part if the licence holder has contravened, or failed to comply with, any of the conditions subject to which his licence was issued. Cancellation of licences

(2) The Committee shall, before cancelling any licence issued under this part, give the licence holder thirty days notice of its intention to cancel the licence if the holder does not take such measures as the Committee may specify in the notice.

(3) A licence holder may, within fourteen days of receiving the notice issued under subsection (2), make representations to the Committee giving the reasons why he has contravened or failed to comply with the conditions of his licence and shall inform the Committee of any remedial measures taken by him.

(4) If after the expiry of the thirty days notice and if the Committee is not satisfied with the representations made by the licence holder and where the Committee is not satisfied with any remedial measures taken, it may cancel the licence.

(5) Where a licence is cancelled under this section, the Coffee Licensing Committee shall inform the licence holder of the reasons for the cancellation.

42. (1) Where any licence is issued to a co-operative society registered under the Co-operative Societies Act, there shall be attached to the licence a schedule specifying the names of members of the society. Licences held by co-operative society Cap. 397

(2) Each member of the co-operative society shall be deemed to be a licence holder for the purposes of this Act.

43. (1) Any person aggrieved by- Appeals relating to licences

(a) the refusal of the Coffee Licensing Committee to issue or renew a licence;

(b) the cancellation of his licence;

(c) any restrictions imposed on his licence;

may, within thirty days of the receipt of the notification to him of the issue, refusal or cancellation, as the case may be, appeal in writing to the Board.

(2) On any appeal made under subsection (1), the Board may confirm, set aside or vary the decision of the Coffee Licensing Committee.

PART VI FINANCEPART VI

FINANCE

44. (1) Subject to subsection (3), the Association may, by notice in the Gazette, on the recommendation of the Board, impose such levies as it may consider necessary and, in particular, shall impose the following levies: Levies

(a) *growers Levy* which shall be levied on the basis of hectarage under coffee which is mature;

(b) *coffee Levy* which shall be levied on all clean coffee delivered to the Association during that crop year:

Provided that the Association may classify the coffee levy into more than one class.

(2) The rates payable for each levy or class of levy shall be determined by the Association and approved by the Board.

(3) Notwithstanding subsection (1), the Association shall not impose any levy on coffee samples of a quantity to be determined by the Association.

(4) A levy imposed under this section shall be a debt due to the association and shall be paid within a period determined by the Association or the Association may recover the levy owing by deducting it from any monies which may be due to that person from the Association.

45. (1) There is hereby established a Coffee Pool Fund which shall be under the control of the Association and which shall consist of all monies derived from- Coffee Pool Fund

The Laws of Zambia

- (a) the sale of coffee by the Association;
- (b) payments made to the Association for administering the sale of coffee on behalf of registered coffee growers;
- (c) levies imposed by the Association; and
- (d) such other monies as may vest in or accrue to the Association.

(2) There shall be paid from the Coffee Pool Fund the following:

- (a) payments due to registered coffee growers for their coffee;
- (b) payments for insurance, transport, storage, brokerage, commission and any other charges and expenses incurred by the Board or Association in the administration of this Act;
- (c) the remuneration of officers, servants and agents employed by the Board or the Association, for the performance of their functions under this Act;
- (d) such reasonable travelling and subsistence allowances for members of the Board or Association or members of a Committee, when performing their functions under this Act, at such rates as the Board may approve;
- (e) the cost of measures promoting agriculture, research or consumption of coffee.

(3) The Board may direct the Association to apply certain monies from the Coffee Pool Fund for such other purposes as it may consider necessary.

(4) The Association may create reserve funds for such purposes as it may consider necessary.

46. The Association may, for purposes for which it is authorised to expend money under this Act, borrow money on the security of the Coffee Pool Fund.

Power to borrow on security of Coffee Pool Fund

47. The financial year of the Board shall be from the 1st October to the 30th September of the following year.

Financial year

48. The Association shall cause to be kept proper books of account and other records relating to its accounts. Accounts

49. (1) The Board shall appoint auditors to examine the accounts of the Association at the end of each financial year. Audit of accounts

(2) The expenses of any audit shall be borne and paid by the Association out of the Coffee Pool Fund.

50. (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities and the activities of the Association during that financial year. Annual report

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Board and the Association and there shall be appended to the report-

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) any other information the Minister may require.

(3) The Minister shall lay the report referred to in subsection (1) before the National Assembly not later than seven days after the first sitting of the National Assembly next after the receipt of the report.

PART VI MISCELLANEOUSPART VI

MISCELLANEOUS

51. (1) In order to ensure compliance with the provisions of this Act, the Board may appoint such inspectors as it may consider necessary. Inspectors

(2) Every inspector shall be provided with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(3) An inspector shall, on demand by any person affected by the exercise of an inspector's powers under this Act, produce for inspection the certificate referred to in subsection (2).

52. (1) In the performance of his duties, an inspector or a police officer shall have power-

Powers of inspectors and police officers

- (a) with a warrant, to enter and search any premises upon which he has reason to believe there is coffee in respect of which an offence under this Act is being or has been committed, and seize and remove any coffee found on the premises which he has reasonable cause to believe may provide evidence of the offence:

Provided that, before removing any coffee under this paragraph, the person removing it shall furnish the person in whose custody or possession the coffee is, at the time of removal, with a written receipt of the coffee;

- (b) to stop, search and detain any vehicle or other conveyance which he has reason to believe is being or has been used for conveying any coffee in respect of which an offence is being or has been committed;
- (c) with a warrant, to inspect all books, records, returns, reports and other documents relating to coffee or to any purchase or sale of coffee;
- (d) to seize machinery or material which he has reason to believe an offence against this Act appears to have been or is likely to be committed;
- (e) without warrant, to arrest and detain any person who he has reason to believe has committed an offence under this Act; and
- (f) to require any person connected with the coffee business to supply any information relating to the purchase, sale or export of coffee.

(2) Any person detained or anything seized under this section shall forthwith be taken before a court to be dealt with according to law, and where it is not practicable to remove from its location any apparently unlawful means of processing or producing coffee, such means may forthwith be rendered inoperative.

(3) An inspector or a police officer may request any person whom he sees doing an act for which a licence or certificate is required under this Act to produce his licence or certificate.

(4) Any person who obstructs an inspector or police officer in the execution of his duties under this Act or who, without reasonable excuse, fails to comply with a request made under subsection (3) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units:

Provided that where such person is on demand unable to produce any licence, or certificate issued under this Act, he shall not be guilty of an offence under this subsection-

- (a) if he produces the licence, or certificate within a reasonable time, not exceeding twenty-one days, to an inspector, a police officer or the Association; and
- (b) explains to the inspector, police officer or the Association that the licence or certificate is produced in compliance with the demands of an inspector or police officer and names the place where the demand was made.

(As amended by Act No. 13 of 1994)

53. Any registered coffee grower or paid up member of the Association may, subject to any conditions as may be prescribed, inspect the records maintained by the Association and may, on payment of the prescribed fee, obtain copies of any proceedings or documents of the Board or of a Committee.

Inspection of records
of Association

54. Where any person is convicted of an offence under this Act, the court may order the cancellation of any certificate or licence held by that person with effect from such date as the court may consider reasonable to enable him to dispose of any stocks of coffee in his possession; and may further order that the person shall not be issued with any further certificate or licence for such period as the court thinks fit.

Cancellation of
certificate or licence by
court order

55. (1) Any person who is convicted of an offence under this Act for which no specific penalty has been provided shall be liable to a fine not exceeding twenty five thousand penalty unit or to imprisonment for a period not exceeding three years, or to both.

General penalty

(2) Where any person is convicted of an offence under this Act, the court may order, in addition to any other punishment that it may impose, that any coffee or machinery in respect of which the offence was committed be forfeited.

(As amended by Act No. 13 of 1994)

56. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may after consultation with the Board make regulations prescribing-

The Laws of Zambia

- (a) anything which may be or is required to be prescribed under this Act;
- (b) the fees to be paid for anything to be done under this Act;
- (c) the forms of certificates and licences issued under this Act and the manner for applying for registration or licences under this Act;
- (d) the condition in which premises specified in a certificate or licence shall be kept;
- (e) the manner in which coffee shall be stored;
- (f) the books and registers which shall be kept, the inspection of such registers and how returns under this Act shall be made;
- (h) the manner in which any levy imposed under this Act shall be collected;
- (i) the forms to be used and the procedures to be followed on any appeal under this Act.