

No. 1 — 2017

I assent,

[L.S.]

Sgd. P. L. Allen

Governor-General.

14th day of March 2017

AN ACT to Establish a body to be known as the Jamaica Agricultural Commodities Regulatory Authority for the development, regulation, promotion and standardization of the agricultural commodities industry; and for connected matters.

[*The date notified by the Minister
bringing the Act into operation*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I—Preliminary

1. This Act may be cited as the Jamaica Agricultural Commodities Regulatory Authority Act, 2017, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title
and
commence-
ment.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Appeal Tribunal” means the Regulated Agricultural Commodities Appeal Tribunal established by section 35;

“appointed day” means the day appointed by the Minister under section 1 for the commencement of this Act;

“Authority” means the Jamaica Agricultural Commodities Regulatory Authority established by section 3;

“Board” means the Board of Directors of the Authority established by section 6;

“buy” includes exchange or barter (whether for goods or services) and any agreement to purchase, exchange or barter;

“cocoa” means the fruit of the *Theobroma Cacao* and its allied species, whether—

- (a) in the pod or in the form of pulp or separated;
- (b) wet or dry;
- (c) fermented or unfermented;
- (d) ripe or unripe; or
- (e) cured or uncured;

“chairman” means the chairman of the Board of the Authority;

“cocoa products” means any product made wholly or in part from cocoa;

“coconuts” means mature coconuts (that is to say, the type known as dry coconuts) and water coconuts (that is to say, the type known as jelly coconuts);

“coconut products” includes—

- (a) copra;
- (b) coconut oil; and
- (c) any product made wholly or in part from any part of the coconut, including edible oils;

“coffee” means the plant botanically known as *coffea* species, the fruit (whether on the plant or detached therefrom) and coffee beans, whether—

- (a) whole or broken;
- (b) in the cherry or pulp or separated from the pulp;
- (c) cured or uncured;
- (d) ripe or unripe;
- (e) in the form of parchment, double husk, or clean;
- (f) dried or undried;
- (g) washed or unwashed;
- (h) fermented or unfermented; or
- (i) roasted or unroasted;

“coffee blend” means the mixing of different types of coffee so that one brand of coffee constitutes at least thirty per cent of the blend or as otherwise specified in the regulations;

“coffee product” includes—

- (a) any coffee blend or coffee products, whether from Jamaica or from any other country or combination of countries; and
- (b) any product made wholly or in part from coffee;

“commercial significance” in relation to a regulated agricultural commodity—

- (a) in sections 15(3) and 16(2), has the meaning specified in Part B of the Fifth Schedule; and
- (b) in section 16(1)(b), has the meaning specified in Part A of the Fifth Schedule;

Part B.
Fifth
Schedule.

Part A.
Fifth
Schedule.

“condition” in relation to an authorization, includes a limitation or restriction;

“dealer” means a person who is licensed under this Act to carry on the business of buying or selling a regulated agricultural commodity;

“Director-General” means the Director-General appointed under section 9;

“document” means in addition to a document in writing, any thing or manner in which information of any description is recorded or stored;

“functions” includes duties and powers;

“inspector” means any person so appointed by the Authority under section 26;

“licence” means a licence, import permit, export permit or other authorization granted under section 17(3)(a);

“licensee” means a person to whom a licence is granted under this Act;

“nursery” means any place utilized for the cultivation of the seedlings or plant of a regulated agricultural commodity in commercial quantities;

“premises” includes vehicles, aircrafts and ships that are being used to transport regulated agricultural commodities;

“regulated agricultural commodity” means any agricultural commodity specified in the First Schedule;

“regulations” means any regulations made under this Act;

“sell” includes exchange or barter whether for goods or services and any agreement or contract to sell, exchange or barter;

“special coffee dealer” means a person who is licensed under this Act to trade in roasted coffee utilizing his own label;

“substitute” means—

(a) in relation to coconut—

- (i) edible oil or edible fat, except oil or fat from animals;
- (ii) any oil or fat producing item set out in the Second Schedule; or
- (iii) soap made wholly or in part from oil or fat,

except liquid or powdered detergent, whether produced locally or imported into the Island;

- (b) in relation to any other regulated agricultural commodity, a product that is—
 - (i) put on the market; and
 - (ii) used in place of or as an alternative to a regulated agricultural commodity.

PART II—*The Jamaica Agricultural Commodities*
Regulatory Authority
Establishment and Functions

3.—(1) For the purposes of this Act, there is established a body to be known as the Jamaica Agricultural Commodities Regulatory Authority, which shall be a body corporate to which section 28 of the *Interpretation Act* applies.

Establishment of the Jamaica Agricultural Commodities Regulatory Authority.

(2) The provisions of Part I of the Third Schedule have effect as to the financial provisions of the Authority and otherwise in relation to the Authority.

Part 1.
Third Schedule.

4.—(1) The functions of the Authority are to—

Functions of Authority.

- (a) promote interest, growth and efficiency in the development of the regulated agricultural commodities industry in Jamaica;
- (b) provide technical advice to the Minister and to persons engaged in the regulated agricultural commodities industry;
- (c) establish, prescribe and enforce standards of quality, handling, grading, export and import for regulated agricultural commodities;
- (d) specify the varieties of regulated agricultural commodities which may be cultivated or manufactured in Jamaica for export or for local trade or which may be imported into Jamaica;
- (e) initiate consultations and other services within the regulated agricultural commodities industry in Jamaica;

- (f) subject to subsection (2), grant licences and certificates of registration;
- (g) subject to subsection (2), allocate quotas of regulated agricultural commodities that may be exported or imported during any period by licensed exporters or authorized importers under this Act;
- (h) intervene in disputes pertaining to the regulated agricultural commodities industry and initiate and engage in arbitration, mediation or other forms of alternative dispute resolution to resolve such disputes; and
- (i) perform such other functions pertaining to the regulated agricultural commodities industry as may be assigned to it, from time to time, by the Minister under this Act or by or under any other enactment.

(2) The Minister may, on the advice of the Authority, approve the grant of import permits or other authorizations, as the case may be, for the importation of any regulated agricultural commodity and substitutes into Jamaica.

(3) In performing the functions specified in subsections (1) and (2), the Authority may—

- (a) establish procedures and develop, implement and monitor plans and programmes relating to the regulated agricultural commodities industry;
- (b) formulate standards and prescribe codes of practice to be observed for the improvement of the regulated agricultural commodities industry generally;
- (c) charge fees for services provided by or on behalf of the Authority;
- (d) undertake, foster and coordinate, where possible, studies and scientific research in respect of regulated agricultural commodities and apply the results of such research in the development of the regulated agricultural commodities industry in Jamaica;

- (e) consult with other agencies of Government that have functions in relation to regulated agricultural commodities;
- (f) make regulations in accordance with section 37; and
- (g) do all such things as the Authority considers necessary or expedient for the purpose of carrying out its functions.

5.—(1) The Authority may delegate, in writing, any of its functions under this Act, other than the power to make regulations and the power of delegation, to the Director-General or to any other member, officer, employee or agent of the Authority. Delegation.

(2) A delegation of any function under subsection (1) is revocable by the Authority and the delegation shall not preclude the performance of that function by the Authority.

Board of Directors

6.—(1) For the purposes of this Act, there is established a Board of Directors of the Authority. Establishment
of Board.

(2) The provisions of Part II of the Third Schedule shall have effect in relation to the constitution and procedures of the Board. Part II.
Third
Schedule.

7.—(1) Subject to the provisions of this Act, the Board shall be responsible for the policy, strategic direction and governance of the Authority. Functions of
the Board.

(2) In the performance of its functions, the Board shall—

- (a) monitor the administrative operations of the Authority;
- (b) advise the Minister on matters of general policy relating to the management, development and encouragement of an efficient, regulated agricultural commodities industry;
- (c) ensure that the Authority receives and manages funds in a prudent manner; and
- (d) do all such things as the Board reasonably considers necessary or expedient for the purpose of carrying out its functions.

Minister may
give
directions to
Board.

8. The Minister may, after consultation with the chairman of the Board, give to the Board directions in writing of a general character as to the policy to be followed by the Board in the performance of its functions, as appear to the Minister to be necessary in the public interest; and the Board shall give effect to the directions.

Director-General

Appointment
of Director-
General.

9.—(1) Subject to subsections (2) and (3), the Board shall appoint a Director-General of the Authority, at such remuneration and on such terms and conditions as the Board deems appropriate.

(2) The Director-General shall be an individual who—

- (a) possesses the knowledge, skills and experience which are necessary for the intended functions to be carried out by that individual;
- (b) is able to exercise competence, diligence and sound judgment in fulfilling his functions;
- (c) appears to the Board to be a person of integrity; and
- (d) has not been convicted of any offence involving fraud, dishonesty or moral turpitude.

(3) Subsections (2), (3) and (4) of section 11 apply, *mutatis mutandis*, to the office of Director-General.

Functions of
Director-
General.

10. The Director-General shall be responsible for the day-to-day administration and management of the Authority which shall include—

- (a) the planning, organizing, controlling, directing, supervising and coordinating of the activities of the Authority, in the performance of its functions conferred by this Act;
- (b) the development of the programmes, performance targets and any service or other standards of the Authority for the approval of the Board;
- (c) the implementation of programmes, performance targets and services referred to in paragraph (b);

- (d) the preparation and submission of the strategic, corporate and other plans for the approval of the Board;
- (e) ensuring administrative support for the Board and any committee established under paragraph 16 of Part II of the Third Schedule, as may be required;
- (f) ensuring that the Board is kept informed of matters relevant to the administration and management of the Authority; and
- (g) the performance of such other functions as are conferred upon the Director-General by or under this Act or any other enactment.

Part II.
Third
Schedule.

Administration

11.—(1) For the proper carrying out of the provisions of this Act, the Authority may appoint and employ to any office in the Authority, such other officers or employees, at such remuneration and on such terms and conditions as the Authority deems necessary.

Appointment
and
employment
of other
officers and
employees.

(2) Except with the prior approval of the Minister responsible for the public service—

- (a) no salary in excess of the prescribed rate shall be assigned to any officer or employee; and
- (b) no appointment shall be made to any office to which a salary in excess of the prescribed rate is assigned.

(3) For the purposes of subsection (2), the prescribed rate shall be such rate as the Minister responsible for the public service may prescribe, by order subject to affirmative resolution.

(4) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer in the service of the Government to any office with the Authority; and any officer so appointed or while so employed, in relation to other rights as a public officer, shall be treated as continuing in the service of the Government.

(5) The Director-General shall consult with the Board in establishing the qualifications for the various offices within the Authority and shall advise the Board on all appointments to fill the offices.

Pensions,
gratuities and
other
retirement
benefits.

12. The Authority, with the approval of the Minister responsible for the public service in consultation with the Minister—

- (a) may enter into arrangements or make regulations respecting schemes, whether by way of insurance policies or otherwise; and
- (b) shall make provisions for—
 - (i) medical benefits;
 - (ii) pensions;
 - (iii) gratuities; and
 - (iv) other retirement benefits or disability or death benefits,

relating to officers and employees of the Authority; and the arrangements, regulations or other provisions may include the grant of benefits to the dependents and the personal legal representatives of the officers and employees.

Obligation of
secrecy.

13.—(1) Every person having an official duty or being employed in the administration of this Act shall—

- (a) regard and deal with as secret and confidential all information, books, records or documents relating to the functions of the Authority obtained by him in the course of the performance of his duties or otherwise; and
- (b) be bound by the provisions of the *Official Secrets Act*.

(2) A person to whom information is communicated by a person in subsection (1) shall regard and deal with the information as secret and confidential.

(3) A person who contravenes subsection (1) or (2) commits an offence under this Act and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars and, in default of payment of the fine, to imprisonment for a term not exceeding twelve months.

(4) Notwithstanding subsections (1) and (2), a person may disclose information in any of the following circumstance—

- (a) pursuant to a court order;
- (b) on the prior written request of the Minister responsible for finance to the Assets Recovery Agency established under section 3 of the *Proceeds of Crime Act*, to facilitate the investigation of any criminal offence;
- (c) to an officer of the Authority who is so authorized;
- (d) to the Registrar of Companies appointed under the *Companies Act*;
- (e) to the Commissioner General appointed under the *Tax Administration Jamaica Act*; or
- (f) where such disclosure is permitted by any other enactment.

PART III—*Management of Regulated Agricultural Commodities*

14.—(1) Subject to section 16 and except under and in accordance with this Act and the regulations, a person shall not—

Restriction on dealings in regulated agricultural commodity.

- (a) manufacture, distribute, or process a regulated agricultural commodity or its substitute;
- (b) export or import a regulated agricultural commodity or its substitute;
- (c) operate works related to a regulated agricultural commodity;
- (d) establish or operate a nursery for a regulated agricultural commodity; or
- (e) operate as a dealer or a special coffee dealer.

(2) Subsection (1) shall not apply to the wholesale or retail selling of a regulated agricultural commodity that was bought from a licensee, if the purchase is made in the ordinary course of business.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction in a Parish Court to a fine

not exceeding three million dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

15.—(1) Every person who carries out or intends to carry out any of the activities referred to in section 14(1) shall apply in the prescribed form and manner, to the Authority for the appropriate licence.

(2) An application under subsection (1) shall be accompanied by the prescribed application fee, which shall be non-refundable.

(3) Every person who grows or intends to grow a regulated agricultural commodity in a quantity that is of commercial significance shall apply in the prescribed form and manner to the Authority for a certificate of registration.

16.—(1) Every person who carries out an activity referred to in section 14(1) shall be exempt from the provisions of this Act if the activity utilizes or yields a quantity of the regulated agricultural commodity that is—

- (a) sufficient for consumption by that person and his household only; or
- (b) too small to be of commercial significance.

(2) Every person who grows or intends to grow a regulated agricultural commodity in a quantity that is not of commercial significance shall be exempt from the provisions of this Act.

(3) Notwithstanding section 14, a regulated agricultural commodity may be imported into or exported from Jamaica otherwise than under a licence granted under section 17—

- (a) in a quantity not exceeding the prescribed amount when carried in the personal baggage of a passenger; or
- (b) in a quantity not exceeding the prescribed amount when sent by post, by sea or by air as gift parcels or *bona fide* samples.

17.—(1) Upon receipt of an application under section 15, the Authority shall cause an inspector to carry out an inspection of premises to which the application relates.

Application
for licence.

Exemption.

Grant or
refusal of
licence.

(2) The inspector shall submit to the Authority a report in the prescribed form in respect of an inspection carried out under this section, and may make general comments or recommendations thereon.

(3) Upon receipt of the report and any written comments or recommendations of the inspector, the Authority may—

- (a) subject to subsections (4) and (6), grant a licence in the form set out in the Fourth Schedule, upon payment of the prescribed licence fee; or
- (b) refuse to grant a licence on any of the grounds set out in section 18.

(4) A licence granted under this section—

- (a) shall be for a period of three years; and
- (b) may be made subject to the terms and conditions, as the Authority may specify in the licence.

(5) Where the Authority refuses to grant a licence, the Authority shall inform the applicant of—

- (a) its decision in writing, stating the reasons for the decision; and
- (b) the right of appeal conferred by section 35.

(6) Licence fees prescribed under subsection (3) may be paid annually in three equal instalments on the grant and subsequent anniversaries of the grant of the licence.

(7) Every licensee shall comply with the health and food safety standards specified in the Sixth Schedule and with such quality standards and health and food safety standards prescribed, from time to time, under section 37 or under any other enactment.

18. The Authority may refuse to grant a licence under this Act—

- (a) where, in the opinion of the Authority, the grant of the licence would not be in the public interest, having regard to such factors as the Authority considers relevant, including the geographical location or intended geographical location in which the regulated agricultural commodity is to be cultivated;

Fourth
Schedule.

Sixth
Schedule.

Grounds for
refusal of
licence.

- (b) where an application contains or is based on a false or misleading representation or information which is false in a material particular;
- (c) to an individual who—
 - (i) is under the age of eighteen years;
 - (ii) is an undischarged bankrupt; or
 - (iii) has been convicted of an offence involving fraud, dishonesty or moral turpitude or an offence under the *Dangerous Drugs Act* (other than an offence which attracts a sentence of imprisonment of not more than five years) during the period of three years immediately preceding the application for a licence;
- (d) to a body corporate in respect of which—
 - (i) a resolution has been passed for its voluntary winding up;
 - (ii) an order has been made by a court of competent jurisdiction for its winding up;
 - (iii) a receiver or a trustee within the meaning of the *Insolvency Act* has been appointed to manage any of its assets;
 - (iv) any of its directors has been convicted of any offence involving fraud, dishonesty or moral turpitude, or an offence under the *Dangerous Drugs Act* (other than an offence which attracts a sentence of imprisonment of not more than five years) during the period of three years immediately preceding the application for a licence; or
 - (v) there is failure to notify the Authority of the readiness and suitability of its premises or business to which the application relates.

19.—(1) A licence may be renewed by the Authority, if—

Renewal of
licence.

- (a) an application for renewal of the licence is made in the prescribed form, at least ninety days before the date of its expiry or, within such shorter period as the Authority may specify;
- (b) the Authority is satisfied that the licensee is operating in compliance with the provisions of this Act or the regulations (including the payment of all current and outstanding prescribed fees);
- (c) there has been no material change in the circumstances which existed at the time when the licence was granted, which would justify the application for renewal being treated as a new application in the manner specified in subsection (3); and
- (d) the applicant has not been convicted of an offence under this Act or the regulations or, in the case of a body corporate, a director, the manager, the secretary or other officer of the body corporate, has not been so convicted.

(2) Where the Authority receives an application for the renewal of a licence after the period specified in subsection (1)(a), the Authority may impose a late fee in addition to any prescribed renewal fee.

(3) Where the Authority is satisfied that a material change of circumstances has occurred since the licence was granted, the Authority shall treat the application as a new application and, accordingly, the provisions of sections 15, 16 and 17 shall apply.

20. The Authority shall not grant a licence retrospectively.

Prohibition
on
issue of
licence
retrospectively.

21. A licence granted under this Act shall not be transferable to another person.

Licence not
transferable.

22.—(1) A licensee may apply to the Authority for the variation, modification or surrender of the licence, stating in writing the reasons for the application.

Variation,
modification,
etc., of
licence.

(2) In considering whether to vary or modify an application made under subsection (1), the Authority shall have regard to the matters specified in section 18.

(3) After consideration of the matters specified in section 18, the Authority may—

- (a) vary or modify the licence, subject to such terms and conditions as the Authority may specify in the licence; or
- (b) refuse to vary or modify the licence.

Suspension of
licence.

23.—(1) Subject to subsection (2), the Authority may suspend a licence if—

- (a) the licensee has failed to pay any fees or other charges required to be paid by this Act or the regulations;
- (b) the licensee is in breach of—
 - (i) any provision of this Act or the regulations; or
 - (ii) any term or condition subject to which the licence is granted;
- (c) it is satisfied that it is not possible for the Authority to carry out a proper inspection as required under this Act;
- (d) an inspector reports to the Authority that the licensee is producing regulated agricultural commodities that—
 - (i) fail to achieve any quality standard or health and food safety standard prescribed in the Sixth Schedule, elsewhere in this Act, the regulations or any other enactment or are otherwise not in compliance with this Act or the regulations or any other enactment; or
 - (ii) the regulated agricultural commodity so produced may adversely affect Jamaica's reputation in relation to the production of that regulated agricultural commodity; or

Sixth
Schedule.

- (e) the licensee notifies the Authority, in writing, that the licensee intends to cease the operations for which he is licensed for the period stated in the notice.

(2) Before suspending a licence under subsection (1) the Authority shall notify the licensee, in writing, of the proposed suspension—

- (a) stating the reasons for the suspension;
- (b) requiring the licensee, in the case of a breach that is capable of being remedied, to remedy the breach within the time specified in the notice; and
- (c) of the right of appeal conferred by section 35.

(3) Where a licence is suspended and the breach can be remedied, the suspension shall not take effect until the expiration of the period specified in the notice under subsection (2).

(4) A licensee who is served with a notice under subsection (2) shall, after remedying the breach which gave rise to the suspension, notify the Authority in writing that the breach has been remedied.

(5) The Authority shall, upon receipt of a notice referred to in subsection (4), cause an inspection to be carried out within fifteen days of the receipt of the notice and if, upon inspection, the inspector is satisfied that the breach has been remedied, the inspector shall report in writing to the Authority and, upon the Authority ratifying the inspector's recommendation, the Authority shall withdraw the notice of suspension.

24.—(1) The Authority may revoke a licence if it is satisfied that— Revocation
of licence.

- (a) a licensee has ceased to comply with the provisions of this Act or the regulations in relation to a regulated agricultural commodity;
- (b) the application for the licence contained false or misleading information in a material particular;
- (c) the licensee has failed to remedy the breach which gave rise to the suspension of the licence under section 23, within the time specified in a notice under subsection (2)(b) of that section; or

- (d) any fee or other charge payable by the licensee remains unpaid for a period of sixty days after the suspension of the licence.

(2) Before revoking a licence under subsection (1), the Authority shall notify the licensee in writing of the proposed revocation, stating the reasons for the proposed revocation and the right of appeal under section 35.

(3) Where a licence is revoked pursuant to this section the licensee shall return the licence forthwith to the Authority.

(4) A person who fails to return a licence that has been revoked under this section to the Authority commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding five hundred thousand dollars and, in default of payment of the fine, to imprisonment for a term not exceeding six months.

Records.

25.—(1) The Authority shall keep a record of every licence granted under this Act.

(2) Every licensee shall keep such books, records or other documents as may be prescribed.

Appointment
of inspectors.

26.—(1) The Authority may, from time to time, appoint as inspectors for the purpose of this Act, public officers or other persons who, by reason of training and experience, are, in the opinion of the Authority, qualified to be so appointed.

(2) The Authority shall cause a notice of every appointment under subsection (1) to be published in the *Gazette*.

(3) The Authority shall issue each inspector with an identification card in the prescribed form.

(4) An inspector shall upon entering any place for the purpose of carrying into effect any of the functions specified in section 27, produce the identification card to the owner or operator or other person in charge of the premises to be inspected.

(5) Where, for any reason whatsoever, a person ceases to be employed under this Act as an inspector, that person shall forthwith return to the Authority the identification card issued pursuant to subsection (3).

27. An inspector shall—

Functions of inspectors.

- (a) inspect premises in order to ensure compliance with—
 - (i) the provisions of this Act and the regulations; and
 - (ii) any condition subject to which a licence is granted;
- (b) establish and maintain records of such matters as may be specified by the Authority;
- (c) report generally to the Authority at such times and in such manner as the Authority may determine; and
- (d) perform such other functions as may be prescribed or as may be authorized by the Authority for the purposes of this Act or the regulations.

PART IV—*Offences and Penalties*

28.—(1) A person shall not wilfully give information to the Authority or an inspector or other authorized member of staff of the Authority that is misleading in a material particular.

Offence of giving misleading information.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars and, in default of payment of the fine, to imprisonment for a term not exceeding twelve months.

29.—(1) A person shall not steal a regulated agricultural commodity.

Offence of stealing regulated agricultural commodity.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Parish Court, to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years or to both the fine and imprisonment;

- (b) on indictment in the Supreme Court, to a fine or to imprisonment for a term not exceeding ten years or to both the fine and imprisonment.

(3) In addition to the penalty imposed under subsection (2), the Supreme Court or the Parish Court, as the case may be, may order a person convicted of the offence under this section to make restitution to the victim of the offence (hereinafter referred to as an “order of restitution”) by directing the person convicted—

- (a) to return the regulated agricultural commodity to the victim or to a person designated by the victim;
- (b) to pay an amount equal to the value of the regulated agricultural commodity, where the return of the regulated agricultural commodity is impossible or impractical or where the regulated agricultural commodity has deteriorated or perished and is no longer of merchantable quality; and
- (c) where applicable, and based on the period of time that the victim was deprived of his regulated agricultural commodity, to pay any interest income which may otherwise have accrued for the period during which the person was deprived of his regulated agricultural commodity.

(4) An order of restitution may be enforced by the victim in the same manner as a judgment in a civil action.

(5) Where the victim dies, the proceeds of an order of restitution shall enure to the benefit of the estate of the deceased.

30.—(1) A person shall not assault, obstruct, hinder or resist or use any threatening language or aid or incite any other person to so assault, obstruct, hinder or resist an inspector or other authorized member of staff of the Authority in the execution of that person’s duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction in a *Parish Court* to a fine not exceeding three million dollars and, in default of payment of the fine, to imprisonment for a term not exceeding three years.

Offence of
assaulting,
obstructing,
resisting, etc.,
inspector.

31.—(1) A person shall not knowingly and falsely represent that the regulated agricultural commodity being cultivated by that person is of a particular geographical location.

Offence of falsely representing geographical location.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding three million dollars and, in default of payment of the fine, to imprisonment for a term not exceeding three years.

32. Every person who commits an offence under this Act for which no penalty is otherwise provided, is liable—

Breach of offence for which no penalty is provided.

(a) in the case of an individual, on summary conviction—

- (i) to a fine not exceeding one hundred thousand dollars and, in default of payment of the fine, to imprisonment for a term not exceeding three months;
- (ii) for a second conviction under this Act, a fine not exceeding five hundred thousand dollars and, in default of payment of the fine, to imprisonment for a term not exceeding six months;
- (iii) for an offence committed subsequent to a conviction for a second offence under this Act, a fine not exceeding three million dollars and, in default of payment of the fine, to imprisonment for a term not exceeding twelve months;

(b) in the case of a body corporate on summary conviction, to a fine not exceeding five million dollars.

PART V—*Enforcement*

33.—(1) Where a Justice of the Peace is satisfied (by information on oath, and on receipt of such further information as he may, in the circumstances require) that there are reasonable grounds for suspecting that evidence of or relating to an offence under this Act or the regulations is to be found on any premises specified in the information, the Justice of the Peace may issue a warrant in accordance with subsection (2).

Entry, search and seizure.

(2) A warrant issued under this section may authorize a Constable named in the warrant, with the assistance of an inspector or other authorized member of staff of the Authority or such other assistance as is reasonably necessary, and by the use of reasonable force, to—

- (a) enter upon the premises specified in the warrant;
- (b) search the premises for evidence of, or relating to, an offence under this Act or the regulations; and
- (c) seize and detain property in the course of the search that the Constable or inspector believes, on reasonable grounds, to be evidence of, or relating to an offence under this Act or the regulations.

(3) A warrant issued under this section shall include—

- (a) a statement of the purpose for which the warrant is issued and a description of the offence;
- (b) a description of the kind of property to be seized;
- (c) a reference to the time, not being later than fourteen days, upon the expiration of which the warrant ceases to have effect; and
- (d) a statement as to whether entry is authorized to be made at any time of the day or night, or during the hours of the day or night specified in the warrant.

Forfeiture of regulated agricultural commodity.

34.—(1) Subject to subsection (4), the court before which a person is convicted of an offence under this Act or the regulations, may, upon the application of the Authority, make an order for the forfeiture of the regulated agricultural commodity which is the subject of the offence.

(2) Where the Authority proposes to apply for the forfeiture of the regulated agricultural commodity under subsection (1), notice of that intention and of the grounds therefor shall be given forthwith to any person who, to the knowledge of the Authority, is the owner of the regulated agricultural commodity; but that notice is not required to be given if the seizure of the goods was made in the presence of the owner of the regulated agricultural commodity.

(3) The notice of intention to apply for the forfeiture of a regulated agricultural commodity and of the grounds therefor—

- (a) shall be given personally to any person who, to the knowledge of the Authority, is the owner of the regulated agricultural commodity; or
- (b) where the notice cannot be given personally by the Authority—
 - (i) by sending the notice by registered mail to the last known registered address of the person;
 - (ii) by sending the notice to the person by electronic means to the last known electronic address of the person; or
 - (iii) by publishing the notice on two occasions in a daily newspaper printed and circulated in Jamaica, the second of those publications being not later than seven days after the first publication.

(4) A person having a claim to any regulated agricultural commodity in respect of which an application is made by the Authority pursuant to subsection (1) may appear before the court on the hearing of the application and show cause why an order for forfeiture should not be made.

(5) If, upon application of any person aggrieved by an order made by the court under this section, the court is satisfied that it is just to revoke that order, the court may revoke the order upon such terms and conditions as it deems appropriate, and, without prejudice to the generality of the foregoing, shall require the person to pay, in respect of storage, maintenance, administrative expenses, security or otherwise of the regulated agricultural commodity, such charges as may be specified by the court.

(6) Where, on hearing an application for forfeiture of a regulated agricultural commodity, no person appears before the court to show cause why an order for forfeiture should not be made, the court may presume that the regulated agricultural commodity has been abandoned or willingly relinquished.

(7) An application to the court under subsection (5) for revocation of an order shall be made within seven days of the date of the order or within such greater time as the court may allow.

Appeals.

35.—(1) There is hereby established a tribunal to be called the Regulated Agricultural Commodities Appeal Tribunal.

Seventh
Schedule.

(2) The provisions of the Seventh Schedule shall have effect as to the constitution and procedure of the Appeal Tribunal and otherwise in relation thereto.

(3) A person who is aggrieved by a decision of the Authority or by the decision of any person to whom a function of the Authority has been delegated under section 5, to refuse to grant, renew, suspend, or revoke a licence, may appeal to the Appeal Tribunal, by way of a notice of appeal, within twenty-one days of the date that the aggrieved person is advised of the decision or within such longer period as the Appeal Tribunal, may in special circumstances, allow and in accordance with the Seventh Schedule.

(4) The notice of appeal shall set out clearly the grounds of the appeal and shall be accompanied by copies of any correspondence, document, inspector's report or any other statement relevant to the appeal.

(5) A copy of the notice of appeal together with copies of any correspondence, document, inspector's report or any other statement shall be served on the Authority.

(6) The Appeal Tribunal shall, within seven days of the receipt of a notice of appeal under subsection (3), request the Authority to furnish it with a statement in writing setting out the reasons for its decisions.

(7) The Appeal Tribunal shall cause all parties to the appeal to be informed—

- (a) of the date of the hearing of the appeal;
- (b) that they may appear themselves or be represented by their attorney-at-law; and
- (c) that they may summon witnesses in their cause.

(8) The Appeal Tribunal shall hear each matter brought before the Appeal Tribunal and give its decision in writing regarding such matter within ninety calendar days of the filing of the appeal, or such longer period as the Appeal Tribunal may require, not exceeding fourteen calendar days, and may—

- (a) dismiss the appeal and confirm the decision of the Authority;
- (b) allow the appeal and set aside the decision; or
- (c) vary the decision.

(9) The Appeal Tribunal shall forward a copy of its decision to the Authority and a copy to the appellant, together with a written statement of the reasons for its decision.

PART VI—*General*

36. The Minister may, by order subject to affirmative resolution, amend—

Amendment
of monetary
penalties and
Schedules by
order.

- (a) any monetary penalty specified in this Act or the regulations;
or
- (b) the First, Second, Third, Fourth, Fifth, Sixth and Seventh Schedules to this Act.

First, Second,
Third,
Fourth, Fifth,
Sixth and
Seventh
Schedules.

37.—(1) The Authority may, with the approval of the Minister, make regulations for the purpose of giving effect to the provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, the regulations may contain provisions in relation to the following matters—

Regulations.

- (a) the setting of minimum standards for quality in respect of the cultivation, trade, export, import and distribution of regulated agricultural commodities, including standards relating to storage facilities, warehousing, hygiene, quality assurance and other related matters;
- (b) the establishment of different grades of regulated agricultural commodities;

- (c) the establishment of procedures for, and the specifying of terms and conditions for, the grant of licences and certificates of registration;
- (d) different categories of licences;
- (e) the procedures for registration of property (whether shared or not) upon which regulated agricultural commodities are grown;
- (f) the cess or other charges imposed under section 38;
- (g) the fees and charges payable in respect of a licence, or an appeal under section 35;
- (h) the fees and charges payable for any service provided by the Authority;
- (i) the prices payable to growers, processors, manufacturers and dealers in regulated agricultural commodities;
- (j) the keeping of records by licensees;
- (k) the making of reports by licensees;
- (l) the disposal of regulated agricultural commodities, other than by way of export or by local distributors;
- (m) the establishment of standards and procedures to prevent suppliers of regulated agricultural commodities from encouraging or carrying out tied selling within the meaning of the *Fair Competition Act*; and
- (n) any other matter required under this Act to be prescribed.

(2) Where prices are prescribed under subsection (1)(h), different prices may be specified in respect of—

- (a) different or same grades, types and quality of the regulated agricultural commodities, or their by-products;
- (b) where applicable, different delivery destinations; and

- (c) different categories of the regulated agricultural commodities or their by-products whether purchased or sold by dealers.

(3) Notwithstanding section 29 of the *Interpretation Act*, regulations made under this section may prescribe greater penalties than those specified in that Act, and the maximum penalty that may be so prescribed shall be a fine not exceeding two million dollars, and in default of payment of the fine, to imprisonment for a term not exceeding twelve months.

(4) Any regulations made under subsection (1) shall be subject to affirmative resolution.

38. The Minister may, in consultation with the Authority, impose a cess or other charges upon any regulated agricultural commodity or its substitute produced in or imported into Jamaica.

Imposition of
cess or other
charges.

39. The enactments specified in column 1 of the Eight Schedule are repealed or amended, as the case may be, in the manner specified in relation thereto in column 2 of that Schedule.

Repeal and
replacement
of
enactments.
Eight
Schedule.

40.—(1) With effect from the appointed day, there shall be transferred to and vested in the Authority, all assets, rights and liabilities of—

Vesting of
assets of
merged
entities.

- (a) the Coffee Industry Board and any subsidiary body thereof;
and
- (b) the Cocoa Industry Board and any subsidiary body thereof, (hereinafter called “the merged entities”) except the Richmond Cocoa Fermentery, the Morgan's Valley Cocoa Fermentery and the cocoa farms owned or operated by the Cocoa Industry Board.

(2) The Authority shall, in relation to the assets, rights and liabilities so transferred and vested, have every right, power, privilege, immunity or duty which immediately before that date was capable of being enjoyed or performed by the merged entities.

(3) In this section, “assets” includes intellectual property.

*The Jamaica Agricultural Commodities
Regulatory Authority Act, 2017*

THIRD SCHEDULE (Sections 3(2), 6(2),
10(e) and 36(b))

PART I—*The Jamaica Agricultural Commodities
Regulatory Authority
Financial Provisions, Accounts and Reports*

Funds of the Authority. 1—(1) The funds and resources of the Authority shall consist of—

- (a) such sums as may, from time to time, be placed at the disposal of the Authority by Parliament; and
- (b) all other sums and property which may, in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions.

(2) The expenses of the Authority, including the remuneration of officers and employees shall be paid out of the funds of the Authority.

Investment by the Authority. 2.—(1) Subject to sub-paragraph (2), all moneys of the Authority not immediately required to be expended for the purpose of—

- (a) meeting any of its obligations; or
- (b) discharging any of the other functions of the Authority,

may be invested in such securities or held in such accounts as may be approved by the Minister responsible for finance; and the Authority may, with the approval of that Minister, sell all or any of such securities.

(2) All funds of the Authority which are invested in securities or held in accounts under sub-paragraph (1) shall be kept, sold or used by the Authority for the furtherance of the advancement of the Authority's functions under this Act.

Accounts and other records. 3.—(1) The Authority shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts in a form—

- (a) satisfactory to the Minister; and
- (b) conforming to established accounting principles.

(2) The accounts of the Authority shall be audited annually by an auditor appointed in each year—

- (a) by the Authority; and
- (b) with the approval of the Minister.

(3) An auditor appointed under sub-paragraph (2) shall be a registered public accountant within the meaning of section 2 of the *Public Accountancy Act*.

(4) The members of the Board and the officers and employees of the Authority shall—

- (a) grant to the auditor appointed under sub-paragraph (2), access to all books or other documents, cash and securities of the Authority; and
- (b) give to the auditor, upon request, all such information as may be within their knowledge in relation to the business of the Authority.

(5) The auditor's fee and any expenses of the audit shall be paid by the Authority.

4. The Authority shall—

- (a) within four months after the end of each financial year; or
- (b) within such longer period as the Minister may in special circumstances approve,

Reports of activities.

cause to be made and, shall transmit to the Minister, a report dealing generally with the activities of the Authority during the immediately preceding financial year.

5.—(1) The Auditor-General may, at all times, examine the accounts of the Authority.

Audits.

(2) Where in any particular case, the Board has reasonable cause for believing that a special audit of the Authority should be concluded by audit other than by the Authority's auditor, the Board may appoint an auditor or a firm of auditors for that purpose.

(3) The expenses, as approved by the Board of any audit or examination carried out pursuant to sub-paragraph (2) shall be paid by the Authority.

6. The Authority shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval—

Estimates of income and expenditure.

- (a) estimates of income and expenditure for the ensuing financial year;

*The Jamaica Agricultural Commodities
Regulatory Authority Act, 2017*

- (b) an operating plan for that year, as to the projects to be—
 - (i) promoted by the Authority;
 - (ii) sponsored by the Authority;
 - (iii) both sponsored and promoted by the Authority;
- (c) the operational framework within which the Authority shall carry out its functions; and
- (d) details of such other related matters as the Minister may require.

Returns,
accounts and
other
information.

7. The Authority shall furnish the Minister with such—
- (a) returns;
 - (b) accounts; and
 - (c) other information,

as the Minister may require with respect to the activities of the Authority; and shall afford him the facilities for verifying such returns, accounts and other information, in such manner and at such times, as he may reasonably require.

Exemption
from income
tax, stamp
duties,
transfer tax
and customs
duties.

8.—(1) The income of the Authority shall be exempt from income tax.

(2) The Authority shall be exempt from stamp duty on all instruments executed by it or on its behalf.

(3) There shall be exempt from taxation under the *Transfer Tax Act* any transfer—

- (a) by the Authority, of property belonging to it; or
- (b) of any right of interest created in, over or otherwise with respect to any such property.

(4) No customs duty or other similar impost (other than general consumption tax) shall be payable upon any article—

- (a) imported into Jamaica;
- (b) taken out of bond in Jamaica; or
- (c) accepted by the Commissioner of Customs to be required for the use of the Authority solely in the performance of its functions under this Act.

9. Notwithstanding any limitation as to the amount recoverable under the *Judicature (Parish Courts) Act*, and without prejudice to any other method of recovery, all debts due to the Authority may be recovered in a Parish Court as a civil debt. Recovery of debts.

10.—(1) Subject to the provisions of sub-paragraph (2), the Authority may borrow such sums as may be required by it for— Borrowings.

- (a) meeting any of its obligations; or
- (b) discharging any of its functions.

(2) The power of the Authority to borrow shall—

- (a) as to amount;
- (b) as to the source of borrowing; and
- (c) as to the terms on which the borrowing may be effected,

be exercisable only on the recommendation of the Minister responsible for agriculture and with the approval of the Minister responsible for finance.

(3) Any approval given in any respect for the purposes of sub-paragraph (1) may be—

- (a) either general or limited to a particular borrowing or otherwise; and
- (b) either unconditional or subject to conditions.

11.—(1) The Authority shall have a common seal which shall be kept in the custody of the chairman or the secretary of the Board and may be affixed to instruments pursuant to resolutions of the Board and in the presence of the chairman, one other member and the secretary. Seal and authentication of documents.

(2) The seal of the Authority shall be authenticated by the signature of the chairman or the secretary of the Board, and shall be officially and judicially noticed.

(3) All documents, (other than those required by law to be under seal) which are made by, and all decisions of, the Board, may be signified under the hand of the chairman or the secretary of the Board.

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Revocation
of
appointment
of
members.

8. The Minister may, at any time, revoke the appointment of a member of the Board if that member—

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill-health;
- (b) is being managed by the Government Trustee or becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted of any offence involving fraud, dishonesty, or moral turpitude;
- (d) has engaged or is engaging in conduct which, in the opinion of the Minister, disqualifies the member from holding office on the Board;
- (e) has engaged or is engaging in such activities as are reasonably considered prejudicial to the interest of the Authority;
- (f) fails to attend three consecutive meetings of the Board without the leave of the chairman;
- (g) fails to carry out the functions of his office as specified by or under this Act; or
- (h) is convicted and sentenced to a term of imprisonment.

Leave of
absence.

9.—(1) On the application of any member of the Board, the Minister may grant leave of absence to the member.

(2) The Minister may direct a member to proceed on leave of absence if the member has been charged with an offence involving fraud, dishonesty or moral turpitude, an offence listed in the Second Schedule to the *Proceeds of Crime Act* or an offence that is similar to any such offence in another jurisdiction.

Re-
appointment.

10. Every member of the Board shall be eligible for reappointment.

Remuneration
of
members.

11. There shall be paid to the chairman and other members of the Board such remuneration (whether by way of *honoraria* or allowances) as the Minister responsible for finance may determine.

Resignations.

12.—(1) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister.

(2) The resignation shall take effect as from the date of receipt by the Minister of the instrument.

(3) A member of the Board other than the chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman.

(4) From the date of receipt by the Minister of the resignation, the member shall cease to be a member of the Board.

13.—(1) The Board shall meet as often as may be necessary or expedient for the transaction of its business (but at least nine meetings shall be held within each financial year) and such meetings shall be held at such places and times and on such days as the Board may determine. Meetings.

(2) The chairman shall preside at all meetings of the Board of the Authority, and if the chairman is absent from a meeting, then the deputy chairman shall preside at the meeting and if the deputy chairman is absent, then the members present shall elect another member to preside at that meeting.

(3) Five members shall constitute a quorum of the Board where at least three of the members present are not *ex-officio* members.

(4) The decisions of the Board shall be by a majority of votes of the *ex officio* and appointed members and, in addition to an original vote, the chairman or other member presiding at the meeting, shall have a casting vote in any case in which the voting is equal.

14. The chairman may at any time call a special meeting to be held within seven days of a written request for the purpose addressed to him by any three members of the Board. Special meetings.

15. Subject to any provisions of this Act to the contrary, the Board may regulate its own proceedings. Board may regulate its own proceedings.

16.—(1) The Board may appoint committees for special purposes connected with the functions of the Authority, to assist the Board in an advisory capacity. Appointment of committees.

(2) A committee appointed under this paragraph may include persons who are not members of the Board but the chairman of the committee shall be a member of the Board.

17. The validity of the proceedings of a committee appointed pursuant to paragraph 16 shall not be affected by any vacancy Validity of proceedings.

among the members of the Board or by any defect in the appointment of a member thereof.

Minutes of meetings.

18. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed as soon as practicable at a subsequent meeting.

Disclosure of interest.

19.—(1) A member who is in any way directly or indirectly interested in any contract or other matter whatsoever which falls to be considered by the Board, or in any contract made or proposed to be made by the Board, shall forthwith disclose the nature of his interest to the other members upon the conflict of interest arising, and the disclosure shall be recorded in the minutes of the next meeting of the Board, and the member shall not take part in any deliberation or decision of the Board with respect thereto.

(2) A disclosure made by a member under sub-paragraph (1) to the effect that he is a director or shareholder of, or has a significant economic relationship with, a specific company, firm or other entity or is to be regarded as interested in any contract which is made with the company, firm or other entity, shall for the purposes of sub-paragraph (1), be a sufficient disclosure of his interest in relation to any contract so made.

(3) A member need not attend in person at a meeting of the Board in order to make a disclosure that he is required to make under this paragraph, if he takes reasonable steps to ensure that the disclosure is made by notice which is taken into consideration and read at the next meeting held after the disclosure is made.

Reports to Parliament.

20.—(1) The Board, may at any time, be required by the Minister to submit a report to him in respect of any matter or activity in which the Authority is involved under this Act.

(2) The Board shall submit to the Minister an annual report relating generally to the execution of its functions and may, at any time, submit a report relating to any particular matter or matters which, in the Board's opinion, require the special attention of the Minister.

(3) Reports submitted to the Minister under this paragraph shall be laid on the Tables of the House of Representatives and the Senate, respectively.

(4) The Board may, in the public interest, from time to time publish in such manner as it thinks fit, reports relating to

matters mentioned in sub-paragraph (2), but no such report shall be published until after it has been laid pursuant to sub-paragraph (3).

21.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done, in good faith, in pursuance of or intended execution of this Act. Indemnity.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Authority shall be liable to the extent that it would be if the member were an employee or agent of the Authority.

22. The office of the chairman or any other member of the Board shall not be a public office for the purposes of Chapter V of the *Constitution of Jamaica*. Membership of Board not public office.



Form of Licence

JAMAICA AGRICULTURAL COMMODITIES
REGULATORY AUTHORITY

Licence No. _____

1. This is to certify that _____ of
(name of licensee)
_____ is licensed under the *Jamaica*
(address)
Agricultural Commodities Regulatory Authority Act to _____ .

2. The following conditions, if any, shall apply to this licence:

- A. _____ .
B. _____ .
C. _____ .
(specify conditions (if any))

3. This licence expires on the _____ day of _____, 20____ .

Signed: _____
Chairman/Secretary
Jamaica Agricultural Commodities
Regulatory Authority

FIFTH SCHEDULE (Sections 2 and
36(b))

*Quantity of Regulated Agricultural
Commodity that is of Commercial Significance*

Type of Regulated Agricultural Commodity Minimum Quantity that is of Commercial Significance

PART A

1.	Cocoa	100 kilograms
2.	Coconut	8,000 coconuts
3.	Coffee	25 kilograms
4.	Ginger	400 kilograms
5.	Nutmeg	300 kilograms
6.	Pimento	25 kilograms
7.	Turmeric	300 kilograms

PART B

1.	Cocoa	50 trees
2.	Coconut	80 trees
3.	Coffee	50 trees
4.	Ginger	1 hectare
5.	Nutmeg	30 trees
6.	Pimento	50 trees
7.	Turmeric	1 hectare

Enactment

Repeal or Amendment

approval of the Minister may, from time to time, determine; and

- (ii) export or dispose of coconuts, and coconut products, in such quantity and in such manner and at such price as the Board with the approval of the Minister considers desirable in the interests of the coconut industry;”;

(b) deleting paragraph (i); and

(c) relettering paragraphs (j) and (k) as paragraphs (i) and (j).

2. Repeal the following provisions, that is to say—

- (a) section 14A (“*Cess on coconut products and substitutes*”);
- (b) section 20 (“*Regulations*”),
- (c) section 21 (“*Power to add or remove from Schedule*”); and
- (d) section 22 (“*Power to exempt from the Act*”).

*Coffee Industry
Regulation Act*

Repeal.

Passed in the House of Representatives with one (1) amendment this 20th day of September, 2016.

PEARNEL CHARLES,
Speaker.

Passed in the Senate this 10th day of November 2016 with seventy-three (73) amendments.

THOMAS TAVARES-FINSON
President.

On the 10th day of January, 2017 the House of Representatives agreed to the amendments made by the Senate.

PEARNEL CHARLES,
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Heather E. Coote
Clerk to the Houses of Parliament.