

**THE NATIONAL AGRICULTURAL MARKETING
ACT, 1969**

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GOVERNMENT OF ZAMBIA

ACT

No. 19 of 1989

Date of Assent: 18th August, 1989

An Act to repeal and replace the National Agricultural Marketing Act, 1969; to provide for the functions and powers of the Zambia Co-operative Federation and the Nitrogen Chemicals of Zambia Limited to provide for the dissolution of the National Agricultural Marketing Board; to transfer the assets, rights, liabilities and obligations of the Board to the Federation; and to provide for matters connected with or incidental to the foregoing.

[18th August, 1989]

ENACTED by the Parliament of Zambia.

Enacted

PART I

PRELIMINARY

1. This Act may be cited as the National Agricultural Marketing Act, 1989, and shall come into operation upon such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

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

Interpretation

“agricultural requisite” means any pesticide, dip, veterinary preparation, seed, planting material, animal feeding stuff, bag, sack, packing material, implement, hand tool, fencing, petroleum product, building material or equipment normally used in agricultural production as may be prescribed by the Minister;

“appointed date” means such date as the Minister shall appoint under section twenty-eight;

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"Board" means the National Agricultural Marketing Board of Zambia established under section three of the National Agricultural Marketing Act, 1969;

"buying agent" means any person authorised by the Federation to acquire any controlled product by purchase for delivery to the Federation;

"Company" means Nitrogen Chemicals of Zambia a Company Limited by shares and registered under the Companies Act;

"controlled product" means any agricultural product, including cattle, livestock and poultry, or any product derived therefrom, declared by the Minister under section ten to be a controlled product;

"dealer" means any person who—

- (a) acquires from any person any controlled product for the purpose of manufacture or sale; or
- (b) imports into any prescribed area any controlled product for any purpose other than for consumption by himself, his household, his servants or his livestock;

"designated agent" means a person appointed as such in terms of section six;

"direct consumer" means any person who buys any controlled product for any purpose other than for the purpose of manufacture or sale;

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"Federation" means the Zambia Co-operative Federation registered under the Co-operative Societies Act;

"miller" means any person who mills or processes any controlled product for any purpose other than for consumption by himself, his household, his servants or his livestock;

"non-controlled product" means any agricultural product other than a controlled product;

"prescribed area" means any area prescribed by the Minister under section ten;

"property" includes movable and immovable property;

"prescribed price" in relation to a controlled product means the price fixed for that controlled product under section eleven;

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"producer" means any person who by himself or his agents grows any controlled product for delivery to a receiving depot, so, however, that if a member of any co-operative society registered under the Co-operative

Societies Act is under an obligation to deliver any controlled product grown by him or his agents to such co-operative society, the controlled product surrendered to the Federation by such surrender, shall be deemed to be a producer of the controlled product surrendered;

"receiving depot" means a receiving depot appointed by the Federation under section sixteen;

"rural depot" means a depot other than a receiving depot appointed by the Federation under section sixteen;

"to sell" includes—

- (a) to sell by auction;
- (b) to offer or attempt to sell;
- (c) to expose, display or advertise for sale;
- (d) to sell or hire under an agreement in terms of the Hire-Purchase Act;
- (e) to exchange or dispose of for any valuable consideration;

and the expressions "sale", "seller", "purchaser" "buyer", "purchase" and "buy" shall be construed accordingly.

PART II

FUNCTIONS, DUTIES AND POWERS OF THE FEDERATION AND THE COMPANY

3. On or after the appointed date the functions of the Federation shall be—

Functions
of
Federation

- (a) to take possession of and to dispose of any controlled product vested in it under the provisions of this Act;
- (b) to buy and to dispose of any controlled product not so vested in it which may be offered to it for sale;
- (c) to buy and dispose of any non-controlled product;
- (d) to buy, sell, supply and distribute agricultural requisites;
- (e) to import or export controlled products, non-controlled products and agricultural requisites as it may consider necessary in the interests of Zambia;
- (f) to provide storage and handling facilities for controlled products, non-controlled products and agricultural requisites;
- (g) to market the stocks of fertiliser referred to in paragraph (c) of subsection (1) of section twenty-nine; and

- (b) to do all things necessary and consistent with the provisions of this Act to ensure the orderly marketing of controlled products and the orderly supply and distribution of agricultural requisites within any prescribed area.

Powers of Federation

4. On and after the appointed date, the powers of the Federation shall be to—

- (a) provide, maintain, operate or control, or assist in the provision, maintenance, operation or control of such storage and handling facilities and processing machinery and plant as it may deem to be necessary in connection with the acquisition, disposal, marketing, treatment or retention of any controlled or non-controlled product or agricultural requisite;
- (b) buy or otherwise acquire such quantities of any controlled product which is not vested in the Federation in terms of this Act and of any non-controlled product for sale or storage or for such other purposes as it may decide, and sell or otherwise dispose of such quantities as the Federation thinks fit;
- (c) buy or otherwise acquire such quantities of any agricultural requisite for sale, distribution or storage or for such other purposes as it may decide, and sell or otherwise dispose of such quantities as the Federation thinks fit;
- (d) export or import any controlled or non-controlled product or agricultural requisite vested in it or acquired by it at such times and in such quantities and on such terms as the Federation thinks fit;
- (e) require any person to furnish such returns or duplicate consignment notes as it may require in respect of any controlled product, any non-controlled product or any agricultural requisite transported by him which was not consigned by, or to the Federation;
- (f) require any person to furnish in such manner and in such forms as the Federation may request information as to the transactions in any controlled product or non-controlled product or agricultural requisite and as to the stocks of any controlled product or non-controlled product or agricultural requisite in his possession or under his control;
- (g) enter into agreements with any person concerned with the control, purchase or sale of any controlled product or non-controlled product or agricultural requisite in any country including the Republic of Zambia:

- (k) direct and control the activities of a designated agent in so far as these activities are concerned with any controlled product, non-controlled product or agricultural requisite:

Provided that, where the designated agent is a society registered under the provisions of the Co-operative Societies Act, such direction and control, in respect of activities, other than day-to-day marketing activities, shall be exercised after consultation with the Registrar of Co-operative Societies;

- (l) promote sales of controlled products, non-controlled products and agricultural requisites by means of advertisement and market research;
- (m) act as agents for the Government—
- (i) in the collection of any levy imposed upon any controlled product or non-controlled product under the provisions of any written law; and
- (ii) for any other purpose.
- (n) do all such things as appear to it to be necessary, desirable or expedient, to carry out these functions.

5. The functions of the Company shall be to—

- (a) produce and import fertiliser for the Republic; and
- (b) distribute fertiliser up to the provincial level:

Provided that the Minister may, by statutory instrument, provide for the distribution of fertiliser beyond the provincial level.

Functions
of Company

6. (1) The Federation may appoint any person to be known as a designated agent to whom it may, with the approval of the Minister, delegate, in writing, any of its functions in respect of any controlled product, non-controlled product and agricultural requisite in a prescribed area.

Appoint-
ment of
designated
agents

(2) The Company may appoint any person to be known as designated agent to whom it may, with the approval of the Minister, delegate, in writing, any of its functions in respect of fertiliser, in a prescribed area.

7. If at any time it appears to the Minister that the Federation or the Company is in default in the performance of any duty or obligation of the Federation or the Company under this Act or under any regulation or requirement made thereunder, he may, by notice in writing, require the Federation or the Company to make good its default within a time fixed by the Minister in the notice.

Power of
Minister on
default of
Federation
or Company

8. The Federation and the Company—

- (a) shall submit to the Minister such reports as the Minister may require; and

Reports to
Minister

- (b) may submit to the Minister such other reports as they may consider fit.

Purchase by
Federation
of certain
controlled
products

9. The Federation shall buy at the prescribed price any controlled product—

- (a) which is the subject of a statutory order made under section ten;
- (b) which complies with the provisions of regulations made under section twenty-six;
- (c) which is offered to the Federation by a producer or by a buying agent or a designated agent who purchased such controlled product from its producer; and
- (d) which is delivered at such time and at such place as the Federation may direct and in accordance with such instructions as the Federation may give.

PART III

CONTROLLED PRODUCTS, PRICES AND EQUALISATION FUNDS

Declaration
of controlled
products

10. (1) The Minister may, by statutory order, declare any agricultural product or any product derived therefrom to be a controlled product and shall, in like manner, prescribe the area within which the product shall be a controlled product.

(2) Different products may be declared by the Minister to be controlled products in different areas.

(3) A statutory order made under subsection (1) may provide that—

- (a) any controlled product;
- (b) any controlled product which is produced by any class or classes of producers prescribed in the order;
- (c) any controlled product which is produced in any area defined in the order; or
- (d) any controlled product which falls within such classification as may be described in the order;

shall not vest in or become the property of the Federation in terms of section sixteen.

(4) A statutory order made under subsection (1) may provide for the terms and conditions of delivery of, and sale or disposal of—

- (a) any controlled product;
- (b) any non-controlled product; or
- (c) any agricultural requisite;

vested in or acquired by the Federation.

11. (1) In each year the Minister may, by statutory order, fix the prices payable by the Federation during the twelve months following a date prescribed in such statutory order for any controlled product bought by it under section nine or vested in it under section sixteen.

Fixing
Prices of
Controlled
products

(2) In fixing prices of controlled products under this section, the Minister may vary such prices according to—

- (a) differing controlled products;
- (b) differing qualities of the same controlled product;
- (c) differing quantities of a controlled product surrendered or delivered at any one time;
- (d) the place at which the controlled product is surrendered or delivered;
- (e) the date at which the controlled product is surrendered or delivered;
- (f) differing containers in which the controlled product is delivered; or
- (g) whether the controlled product is delivered in containers or not.

(3) Subject to the terms of any order made under the Control of Goods Act, or to the direction of the Minister, the price at which the Federation shall sell any controlled product to any person for use within Zambia shall be determined by the Federation by adding to the price prescribed in terms of subsection (1) for such controlled product the Federation's allocation of disbursement for that product and by adding to it or deducting from it such amount to the debit or credit of the equalisation fund for that product as the Minister may direct:

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Provided that—

- (a) if in any financial year there have been sales in any prescribed area of any controlled product imported by the Federation, the Federation's selling price of that controlled product may be adjusted to take into account any costs and expenses incurred by the Federation in connection with the controlled product;
- (b) with the prior approval of the Minister obtained in writing, the Federation may sell a controlled product at a price less than the price determined in terms of this subsection if it is unable to sell at the price so determined;
- (c) the Federation, with the approval of the Minister, may determine the price at which it shall sell any controlled product for removal outside any prescribed area.

Fixing
prices on
controlled
products,
agricultural
requisites
and fertiliser

12. (1) Subject to the directions, if any, given by the Minister, the Federation shall determine the price at which it shall buy or sell any non-controlled product or agricultural requisite.

(2) Subject to the directions, if any, given by the Minister the Company shall determine the price at which it shall buy or sell fertiliser.

Restriction
on removal
of
controlled
products

13. Except with the written permission of the Federation, no person shall remove a controlled product from any prescribed area.

Equalisation
funds

14. (1) The Federation shall establish and administer in accordance with the provisions of this section an equalisation fund in respect of each controlled product, each non-controlled product and of agricultural requisites, which in terms of this Act are vested in or acquired by it.

(2) The Minister may, notwithstanding subsection (1), direct that the Federation shall establish more than one equalisation fund in respect of any particular controlled product, non-controlled product or agricultural requisite which shall be administered in accordance with the provisions of this section.

(3) If in any financial year the proceeds from the sales by the Federation of any controlled product, any non-controlled product or agricultural requisite are greater than the sum comprised of the amount actually expended by the Federation by way of expenses, costs, interest and other charges in respect of such sales together with the value of the controlled product, non-controlled product or agricultural requisite, as the case may be, calculated at the price paid for it by the Federation, the Federation shall pay into the equalisation fund established for that controlled product, non-controlled product or agricultural requisite an amount equal to the difference between such proceeds and such sum.

(4) If in any financial year the proceeds from sales by the Federation of any controlled product, any non-controlled product or agricultural requisite are less than the sum comprised of the amount actually expended by the Federation by way of expenses, costs, interest and other charges in respect of such sales together with the value of such controlled product, non-controlled product or agricultural requisite, as the case may be, calculated at the price paid for it by the Federation, the difference between such sum and such proceeds shall be met from the equalisation fund established for that controlled product, non-controlled product or agricultural requisite so, however, that if the moneys in the fund are insufficient to meet such differences the balance shall be met by an advance obtained out of moneys appropriated for the purpose by Parliament.

(5) Where, in the opinion of the Minister, there is in an equalisation fund established under the provisions of this section, an amount of money surplus to the amount necessary for the purpose of the fund, he may—

- (a) on such terms as he deems fit and with the approval of the Minister responsible for finance, authorise the Federation to borrow money from the fund for the purpose of capital development by the Federation; or
- (b) direct that the amount of such surplus money or part thereof be used for the benefit of the growers of the product for which the fund was established for or the general benefit of the agricultural industry.

PART IV

VESTING OF, AND OTHER MATTERS RELATING TO DEALERS WITH, CONTROLLED PRODUCTS, NON-CONTROLLED PRODUCTS AND AGRICULTURAL REQUISITES

15. (1) Subject to the provisions of this section, every producer, buying agent, miller, dealer, direct consumer and designated agent shall, before acting in any such capacity register his name with the Federation and furnish to the Federation the address of the place or premises at which he grows his products, carries on his business or uses a controlled product, non-controlled product or agricultural requisite, as the case may be, the depot where he intends to surrender his products, and shall also furnish to the Federation details of any changes in such particular as they occur from time to time.

Registration

(2) Any person who immediately prior to the commencement of this Act was registered or was deemed to be registered, under the provisions of any law then in force, as a producer, buying agent, miller, dealer or direct consumer shall be deemed to be registered as such under the provisions of this section.

(3) Application for registration as a buying agent or a designated agent may be refused by the Federation—

- (a) if, in the opinion of the Federation, the applicant will be unable to comply with the provisions of this Act relating to the keeping of books and records and rendering of returns; or
- (b) if the applicant has been convicted of an offence under the provisions of this Act; or
- (c) if, in the opinion of the Federation, any such registration would not be conducive to the orderly and efficient marketing of controlled products, non-controlled products or agricultural requisites.

(4) The Federation may cancel the registration of any person as a buying agent or a designated agent if such person—

- (a) has been convicted of any offence under the provisions of this Act; or
- (b) has not, in the opinion of the Federation, conducted his business—

- (i) in accordance with the provisions of this Act; or
- (ii) in a manner conducive to the orderly and efficient marketing of controlled products, non-controlled products or agricultural requisites; or

- (c) has notified the Federation of his intention to discontinue the operations in respect of which he has been registered and has made written application for removal of his name from the register.

(5) The Federation may cancel the registration of any person as a producer, miller, dealer or direct consumer if such person—

- (a) has not, in the opinion of the Federation, carried on business in the capacity in respect of which he was registered during a period of twelve months since his registration; or
- (b) has notified the Federation of his intention to discontinue the operations in respect of which he has been registered and has made written application for the removal of his name from the register.

(6) Any person who has been registered or is deemed to be registered under the provisions of this section shall continue to be bound by all the obligations, conditions and restrictions affecting him under the provisions of this Act until he has received notice in writing from the Federation to the effect that his registration has been cancelled.

(7) Any person whose application for registration is refused by the Federation under subsection (3) or whose registration is cancelled by the Federation under paragraph (a) or (b) of subsection (4) or paragraph (a) of subsection (5) may appeal in writing to the Minister whose decision in the matter shall be final, and no appeal shall lie in any court against such decision.

(8) Subject to the approval of the Minister, the Federation may exempt any person or class of persons from the obligation to register under the provisions of subsection (1).

(9) Nothing in this section shall require the registration of a person as a direct consumer where the controlled product is required only for consumption by that person or members of his household.

(10) This section, shall apply, with necessary changes to the Company in relation to fertiliser.

16. (1) Subject to the provisions of sections ~~seventeen~~ and ~~eighteen~~ the following controlled products are hereby vested in, and shall become the property of, the Federation:

Vesting and
surrender
of
controlled
products

- (a) any controlled product grown in a prescribed area by a producer as soon as it is harvested;
- (b) any controlled product which is acquired by or is in the possession of a buying agent, designated agent, miller or dealer; and
- (c) any controlled product imported into any prescribed area by any person as soon as it has been imported:

Provided that the liability of the Federation in respect of such imported controlled product, shall be limited to a figure to be fixed by the Federation not exceeding the prescribed price for such product.

(2) Any controlled product which is vested in the Federation in terms of this section shall be surrendered to the Federation at such time, at such place and in such quantities as the Federation may direct and every person having in his possession, or under his control, any controlled product due to be surrendered under the provisions of this section shall inform the Federation immediately such controlled product is available for surrender.

(3) The Federation may appoint receiving depots at which controlled products shall be surrendered by a producer, buying agent, designated agent, miller or dealer.

(4) The Federation may appoint rural depots at which controlled products may be surrendered by any person other than a person specified in subsection (3).

(5) Any person having in his possession or under his control any controlled product due to be surrendered under the provisions of this section shall surrender such controlled product to the receiving depot of the Federation which is nearest to his place of business before the depot is closed for the year:

Provided that any person who has been unable for any reason to comply with the provisions of this subsection shall notify the Federation and comply with any directions of the Federation relating to the surrender of the controlled product.

(6) On the surrender of any controlled product which does not comply with the provisions of regulations made under section ~~twenty-six~~ the Federation may decline to accept it and direct that it be surrendered at a later date or may finally

reject the controlled product and, on such rejection the Federation shall if the person surrendering it so requires, issue to him a certificate of final rejection.

(7) Any controlled product rejected shall no longer vest in the Federation and may be sold or otherwise disposed of by such person.

(8) If the Federation takes possession of any controlled product surrendered to it, it shall issue a receipt for it to the person who surrendered it.

(9) The Federation shall not be subject to any obligation or liability whatsoever in respect of any controlled product surrendered to it until it has taken possession of it and has issued a receipt in respect thereof in terms of subsection (8).

(10) Any person to whom the certificate of final rejection has been issued in terms of subsection (6) shall—

- (a) return such certificate to the Federation immediately after he has sold or otherwise disposed of the controlled product to which the certificate relates; and
- (b) state on the certificate whether the controlled product was sold or otherwise disposed of; and
- (c) in the case where the controlled product was—
 - (i) sold, the name and address of the person to whom such product was sold; or
 - (ii) disposed of otherwise than by sale, the manner in which such product was disposed of.

Controlled
product not
vested in
Federation

17. (1) Notwithstanding the provisions of section sixteen, the following controlled products shall not vest in the Federation:

- (a) any controlled product which is the subject of a statutory order made under section ten;
- (b) any controlled product which is *bona fide* sold for seed by its producer;
- (c) any controlled product retained by its producer for consumption by him, members of his household, his servants or his livestock; and
- (d) any controlled product which is imported by any person for consumption by him or members of his household.

(2) No person who imports a controlled product for his own personal or household consumption, shall sell, or otherwise dispose of, such controlled product to any person other than the Federation.

18. (1) Notwithstanding the provisions of section sixteen the Minister may, by statutory order, declare that any controlled product described in such order and grown in the area therein described may be sold by its producer to a direct consumer in such area, in such quantity, during such period and in accordance with such conditions as may be specified in such order.

Power of Federation to authorise certain sales

(2) Any controlled product which is lawfully sold by its producer in accordance with the provisions of a statutory order made under this section shall be deemed at the time of sale not to vest in and shall not be surrendered to the Federation.

19. Notwithstanding anything to the contrary in this Act the Federation may, with the approval of the Minister, authorise a miller, a dealer or a designated agent in an area to acquire on behalf of the Federation at the price fixed under section eleven, such an amount of a controlled product as the Federation considers fit, and to dispose of the controlled product in accordance with such directions as the Federation may give.

Federation may authorise millers, dealers or designated agents to acquire a controlled product in certain circumstances

PART V GENERAL

20. Any police officer may, for the purpose of securing compliance with this Act, at all reasonable times stop and enter into any motor vehicle on a public highway or, in execution of a search warrant issued by a magistrate, enter upon the premises of, or any land or places occupied by, any producer, buying agent, designated agent, dealer, direct consumer, miller or any other person and may examine all stocks of any controlled product, non-controlled product and agricultural requisite or fertiliser and all books, accounts and documents relating thereto and require an explanation of any entries or documents referring or suspected to refer to transactions in any controlled product, non-controlled product or agricultural requisite or fertiliser and may seize any such books, accounts or documents and do such other things, including the taking of samples, as afford evidence of contravention of this Act.

Power of entry, search and examination

21. (1) A police officer may arrest without warrant a person who has committed, or is reasonably suspected by such police officer of having committed, an offence against this Act if he has reasonable ground for believing that the person will abscond unless arrested, or if the name and address of the person are unknown to, and cannot be ascertained by, him.

Power of arrest

(2) Any person who is arrested by a police officer shall be informed as soon as reasonably practical, in a language that he understands, of the reasons for his arrest.

Offences
and
penalties

22. (1) If any person—

- (a) fails to surrender at the time and place directed by the Federation any controlled product which is due to be surrendered to the Federation under the provisions of this Act and which is at the time of such failure in his possession or under his control;
- (b) having acquired a controlled product as a direct consumer, sells such product or uses it for the purpose of manufacture;
- (c) being a buying agent or a designated agent fails to account within the prescribed time to the Federation for any controlled product acquired by him;
- (d) being producer and having retained any controlled product for his own use under the provisions of this act, sells such product otherwise than as is permitted under such provisions;
- (e) wilfully delays or obstructs a police officer in the lawful exercise of his powers conferred upon him by section *twenty* or *twenty-one* or fails to produce or conceal or attempts to conceal any controlled product, non-controlled product or agricultural requisites of fertilizer or any books or documents relating to such product or requisite or fertilizer or refuses to allow any sample to be taken or fails to render any information required from him under the provisions of this Act or in any such information knowingly makes a false statement;
- (f) being an assignor of moneys due or to become due from the Federation, or to the Company commits a breach of any condition attached to the assignment in terms of subsection (2) of section *twenty-four*;
- (g) contravenes or fails to comply with any provisions of this Act with which it is his duty to comply; and
- (h) not being a registered dealer or a designated agent, imports into a prescribed area any controlled product for any purpose other than for consumption by himself, his household, his servants or his livestock;

he shall be guilty of an offence, and liable—

- (i) in case of a first conviction, to a fine not exceeding two thousand kwacha or, in default of payment, to imprisonment for a period not exceeding twelve months; and
- (ii) in the case of second or subsequent conviction, to a fine not exceeding four thousand kwacha or, in default of payment, to imprisonment for a period not exceeding two years.

(2) The court before which a person is convicted of an offence against this Act may order that he shall forfeit to the Republic all products or agricultural requisites in respect of which the offence was committed or may make such other order as it

thinks fit and, notwithstanding anything in this Act, the products or the agricultural requisites shall be disposed of in accordance with the order of the court.

23. (1) Where a person convicted of an offence against this Act is a company, the chairman and every director and every officer of the company concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

Offences by companies or co-operative societies

(2) Where a person convicted of an offence against this Act is a co-operative society registered under the Co-operative Societies Act, every member of the committee of the co-operative society and every officer concerned in the management of the co-operative society shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

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24. (1) Moneys due or to become due from the Federation or the Company to any person shall not be assigned by that person without the prior consent in writing of the Federation.

Assignment of debts

(2) The Federation or the Company may attach such conditions as they deem fit to any consent given by them under subsection (1) and any assignment made in pursuance of that consent shall be subject to those conditions and the assignor shall comply with the conditions.

25. (1) Notwithstanding sections nine, eleven and sixteen the Federation may deduct from any sum due and payable to a producer, a buying agent, a designated agent, a miller or a dealer for any controlled product, non-controlled product or agricultural requisite surrendered, delivered or sold to the Federation—

Powers of Board to make deductions

- (a) any sum which is due and payable to the Federation by such producer, buying agent, designated agent, miller or dealer;
- (b) any sum which is the subject of an assignment under section twenty-four; and
- (c) any sum towards the settlement of any contingent liability, as estimated by the Federation, of any producer, buying agent, designated agent, miller or dealer to the Federation in respect of any loan which may have been made by the Federation to such producer, buying agent, designated agent, miller or dealer:

Provided that when the actual liability of such producer, buying agent, designated agent, miller or dealer, as the case may be, has been ascertained, the Federation shall pay, after making such deductions under the provisions of paragraphs (a) and (b) as are outstanding, to such producer, buying agent,

designated agent, miller or dealer out of the sum so deducted any amount in excess of the actual liability of such producer; buying agent, designated agent, miller or dealer, as the case may be.

(2) Whenever—

- (a) any sum is due and payable to the Federation by a producer;
- (b) any sum is the subject of an assignment, under section *twenty-four* made by a producer; or
- (c) any sum towards the settlement of any contingent liability, as estimated by the Federation of any producer in respect of any loan which may have been made by the Federation to such producer;

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and the said producer is a member of any co-operative society registered in terms of the Co-operative Societies Act and is under an obligation to deliver to that co-operative society any controlled product, non-controlled product or agricultural requisite grown or produced by himself or his agents; the Federation may deduct any or all sums mentioned in paragraphs (a), (b) and (c) from any sum due and payable by the Federation to such co-operative society in respect of any such product or requisite surrendered, delivered or sold to the Federation by that member and which by reason of such obligation is deemed to have been surrendered, delivered or sold for the account of such co-operative society:

Provided that, in respect of the sum mentioned in paragraph (c), when the actual liability of the producer has been ascertained the Federation shall pay to the appropriate co-operative society, out of the sum so deducted, any amount in excess of the actual liability of such producer.

(3) In subsection (2) "producer" means any person who by himself or his agent grows or produces any controlled product, non-controlled product or agricultural requisite.

(4) The Federation shall pay to the assignee any sum which is the subject of an assignment under section *twenty-four* and which is deducted by the Federation in terms of this section.

(5) If the Federation suffers any loss in relation to any deduction or payment made under this section by the Federation in respect of an assignment under section *twenty-four* the assignee shall make good to the Federation such loss irrespective of whether that fault in respect of such deduction or payment is that of the Federation or not.

Regulations

26. (1) The Minister, may by statutory instrument, make such regulations for the better administration of this Act.

(2) Without prejudice to, or derogation from, the generality of subsection (1), regulations may provide for—

- (a) the forms and manner of issue of permits or any other documents required under the provisions of this Act;
- (b) the keeping of any record, book or document by buying agents, designated agents, millers and dealers, direct consumers and such other person as may be prescribed;
- (c) the submission and form of returns by producers, buying agents, designated agents, millers, dealers, direct consumers and such other person as may be prescribed;
- (d) the standards of quality, classification, grading, moisture content and packing of any controlled product or agricultural requisite which may be accepted or disposed of by the Federation; and
- (e) prescribing anything to be prescribed under the provisions of this Act.

(3) The regulations made under this section may provide that persons offending against the regulations shall be liable to a fine not exceeding one thousand kwacha, or, in default of payment, to imprisonment for a period not exceeding twelve months.

(4) In exercise of the powers conferred by this section, the Minister may provide for different regulations to apply in different prescribed areas.

PART VI

WINDING UP AND DISSOLUTION OF BOARD

27. (1) From the commencement of this Act the Board shall exist only for the purpose of winding up its affairs, and for no other purpose.

Winding up
of affairs
of Board

(2) Notwithstanding anything to the contrary contained in this Act, or in any other written law, the Board shall, for the purpose of winding up its affairs, have power to do anything which is necessary or expedient for that purpose or which is incidental to it, including, in particular but without prejudice to the generality of that power, power to enter into and carry out agreements and arrangements for the transfer of its property, rights, liabilities and obligations to the Federation.

28. When the Minister is satisfied that all necessary agreements and arrangements have been made for the winding up of the affairs of the Board so that it may be dissolved, he shall, by statutory instrument, order that the Board shall be dissolved on such date as may be appointed in the statutory instrument.

Dissolution
of Board

Transfer of undertaking property, rights, liabilities, obligations of Board to Federation and Company

29. (1) On and after the appointed date there shall be transferred to, and vest in, the Federation—

- (a) the undertaking of the Board;
- (b) all property, rights, liabilities and obligations which immediately before the appointed date were the property, rights, liabilities and obligations of the Board; and
- (c) stocks of fertilizer that are in the possession of the Board.

Registration of property to be transferred by Board to Federation

30. (1) Whenever in pursuance of this Act any property, rights, liabilities or obligations, of the Board are deemed transferred in respect of which transfer a written law provides for registration, the Federation shall make an application in writing to the proper officer of the appropriate registration authority for the registration of the transfer.

(2) The officer referred to in subsection (1) shall make such entries in the appropriate register as shall give effect to the transfer and, where appropriate, issue the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned; and no registration fees, stamp duty or other duties shall be payable.

Agreements, etc., to be assigned by Federation

31. (1) On and after the appointed date, except as provided in this part, every deed, bond and agreement (other than an agreement for personal service) to which the Board was a party immediately before the commencement of this Act, whether in writing or not, and whether or not of such nature that rights, liabilities and obligations thereunder could be assigned shall, unless its subject-matter or terms make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the date of the assignment, as if—

- (a) the Federation has been a party to them;
- (b) for any reference to the Board there was substituted, as respects anything falling to be done, on or after the commencement of this Act, a reference to the Federation; and
- (c) for any reference to an officer of the Board who is not a party to the deed, bond or agreement and beneficially interested in them there were substituted, as respects anything to be done on or after the commencement of this Act, a reference to such officer of the Federation as the Federation shall designate.

(2) Subject to subsection (1) documents other than those referred to in that subsection which refer specifically or generally to the Government of the Republic of Zambia shall be construed in accordance with that subsection as far as applicable.

(3) The provisions of subsections (1) and (2) shall apply to the Company, with the necessary changes, in respect of agreements relating to fertiliser which has not been received by the Board.

32. (1) Where any person who was in the service of the Board immediately before the commencement of this Act voluntarily transfers from that service to the service of the Federation, his terms and conditions of service with the Federation shall be no less favourable than those he enjoyed while in the service of the Board and his previous service with the Board shall be treated as service under the Federation for the purposes of determining his rights to, or eligibility for, pension, gratuity, leave or other benefits.

*Transfer of
service of
employee*

(2) A person to whom subsection (1) applies shall be deemed to have voluntarily transferred his services to the Federation unless within three months from the commencement of this Act he gives notice in writing to the Board of his intention not to transfer from the services of the Board.

(3) Any person to whom subsection (1) applies who does not voluntarily transfer to the service of the Company under subsection (2) shall be deemed to have voluntarily retired from the service of the Board from the date of his notification to the Board of his intention not to transfer, or the expiration of the three months period prescribed by subsection (2), whichever is the earlier.

(4) Any person who is deemed to have retired under subsection (3) shall be entitled to all retirement benefits which would have been paid if he had voluntarily retired in accordance with the relevant rules and conditions of the Board.

33. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Federation by virtue of this Act, the Federation and all other persons shall, as from the commencement of this Act, have the same rights, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing those rights, liabilities or obligations as they would have had if it had at all times been a right, liability or obligation of the Federation.

*Legal
Proceedings*

(2) Any legal proceedings or application to any authority pending immediately before the commencement of this Act by or against the Board in relation to the assets transferred to the Federation may be continued by or against the Federation.

(3) After the commencement of this Act proceedings in respect of any right or obligation which was vested in, held enjoyed, incurred or suffered by the Board, may be instituted by, or against the Federation.

Repeal
Chap. 256

34. The National Agricultural Marketing Act, 1969, is hereby repealed.