

Chapter 388.
Cocoa Act 1981.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 388.

Cocoa Act 1981.

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SCHEDULE 1 – Exceptions and Modifications to the *Public Finances (Management) Act 1995.*

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Cocoa Act 1981,

Being an Act relating to the control of the cocoa industry and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely—

- (a) the freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the freedom of employment conferred by Section 48 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for that purpose.

(2) For the purpose of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this law relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Board**” means the Cocoa Board, established by Section 4;

“**buy**” includes acquire for a consideration other than money;

“**cacao bean**” means a seed of a tree belonging to the botanical species *Theobroma Cacao* where the seed has not passed through a fermentation or drying process and includes a cacao pod;

“cocoa bean” means a fermented cacao bean;

“Cocoa Stabilization Fund” means the Fund established by Section 19;

¹**“extension services”** means any services to assist growers in the growing of cocoa beans and the production of cocoa;

“this Act” includes the regulations.

3. APPLICATION.

This Act has no application to cacao beans used or intended to be used as seed material.

¹ Section 2 (definition of “extension services”) inserted by *Cocoa (Amendment) Act 1997* (No. 12 of 1997), s2.

PART II. – THE COCOA BOARD.

4. ESTABLISHMENT OF THE COCOA BOARD.

(1) The Cocoa Board is hereby established.

(2) The Board—

(a) is a corporation with perpetual succession; and

(b) shall have a common seal; and

(c) may acquire, hold or dispose of property; and

(d) may sue and be sued in its corporate name.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document, and shall presume that it was duly affixed.

5. CONSTITUTION OF THE BOARD.

(1) The Board shall consist of—

(a) the Departmental Head or a person nominated by him; and

(b)² a Chairman and seven members all being, or representing, cacao growers appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(2) The Chairman and the members of the Board referred to in Subsection (1)(b)—

(a) shall be appointed for a period not exceeding three years; and

(b) are eligible for re-appointment; and

(c) hold office on such terms and conditions as the Minister determines.

6. DEPUTY CHAIRMAN OF BOARD.

(1) The Chairman and members of the Board shall elect a member to be the Deputy Chairman.

(2) If the Chairman is unable to act in relation to a matter the Deputy Chairman has and may exercise and perform the powers and functions of the Chairman.

7. TERMINATION OF APPOINTMENT.

(1) The Minister shall, by notice in the National Gazette, terminate the appointment of the Chairman or a member of the Board appointed under Section 5(1)(b) if the Chairman or the member—

² Section 5 Subsection (1) amended by No. 97 of 2006, Sched. 1.

- (a) becomes permanently incapable of performing his duties; or
- (b) becomes bankrupt or insolvent, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration or allowances for their benefit; or
- (c) in the Minister's opinion—is no longer a cacao grower or a representative of cacao growers; or
- (d) in the Minister's opinion—permanently resides outside the country; or
- (e) stands for election to, or becomes a member of, the Parliament or the legislative or executive arm of a provincial government; or
- (f) informs the Minister that he wishes to resign.

(2) The Minister may, by written notice, advise the Chairman or a member of the Board appointed under Section 5(1)(b) that he intends to terminate his appointment if the Chairman or the member—

- (a) without leave of the Board—is absent from three consecutive meetings of the Board; or
- (b) in the Minister's opinion—
 - (i) is unable to carry out efficiently his duties on the Board; and
 - (ii) has been guilty of misbehaviour or inefficiency when carrying out those duties.

(3) Within 14 days of the receipt of a notice under Subsection (2), the Chairman or member may reply in writing to the Minister who shall—

- (a) consider the reply; and
- (b) as soon as is practicable, deliver written notice of his decision to the Chairman or member.

(4) Where the Chairman or member referred to in Subsection (2) does not reply in writing to the Minister within 14 days of the receipt of a notice under that subsection, his appointment is terminated.

8. MEETINGS OF THE BOARD.

(1) Subject to Subsection (3), the Board shall meet at such times and places as the Chairman may determine but shall meet at least once every four months.

(2) The Chairman shall send notice of a meeting of the Board to each member at least seven days before the meeting.

(3) If requested to do so by—

- (a) the Minister; or
- (b) at least three members,

the Chairman shall call a meeting of the Board as soon as practicable.

(4) At a meeting of the Board—

- (a) five members, of whom one is either the Chairman or Deputy Chairman, is a quorum; and
- (b) The Chairman or, in his absence, the Deputy Chairman shall preside; and
- (c) all matters shall be decided by a majority of votes of the members present and voting; and
- (d) the person presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(5) The Board shall keep a record of its proceedings.

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

9. DISCLOSURE OF INTEREST.

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

- (a) take no part in deliberation or decision of the Board with respect to that contract; and
- (b) be disregarded for the purposes of constituting a quorum for any such deliberation or decision.

10. FUNCTION OF THE BOARD.

It is the function of the Board, acting in the best interest of cocoa growers of the country, and in accordance with any written directions given to it by the Minister—

- (a) to control and regulate the growing, processing, marketing and export of cacao, cacao beans, cocoa beans and cocoa products; and
- (b) to establish price stabilization, price equalization and stockholding arrangements within the cocoa industry; and
- (c) to promote the consumption of Papua New Guinea cocoa beans and cocoa products; and
- (d) to promote research and development programmes for the benefit of the cocoa industry; and

- (da)³ to engage in extension services and related programmes, by itself or in co-operation with other persons or bodies, for the benefit of the cocoa industry; and
- (e) when required by the Minister—to act as agent for, and to carry out the obligations of, the State under any international agreement relating to cocoa, including meeting all financial obligations of the State or the Board under any international agreement (except membership fees of an international organization); and
- (f) generally to do such things as are necessary or convenient to be done by the Board for giving effect to this Act.

11. POWERS OF THE BOARD.

(1) The Board has, in addition to other powers conferred by this Act, power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and, in particular, has power—

- (a) to require persons engaged in the cocoa industry to supply to the Board prescribed information in respect of their activities in the industry; and
- (b) to prohibit or restrict the sale or purchase of cacao beans or cocoa beans which fail to comply with prescribed minimum quality standards and to impose such conditions on the disposal of those beans as the Board thinks fit; and
- (c) to fix, by notice in the National Gazette, maximum and minimum prices at which a type or grade of cacao beans or cocoa beans may be bought or sold, and the places or circumstances at or in which those prices apply; and
- (d) to deal in cacao beans or cocoa beans; and
- (e) to enter into contracts; and
- (f) to erect and maintain buildings; and
- (g) to acquire, mortgage or charge, let, hold and dispose of property; and
- (h) to provide assistance to persons engaged in the cocoa industry; and
- (i) to do anything incidental to its powers.

(2) A person who—

- (a) fails to supply, or provides false or misleading information, to the Board when required to do so under Subsection (1)(a); or
- (b) sells or purchases cacao beans or cocoa beans which fail to comply with prescribed minimum quality standards contrary to a prohibition or restriction on the sale or purchase of those beans imposed by the Board under Subsection (1)(b) or fails to comply with or observe conditions

³ Section 10(da) inserted by *Cocoa (Amendment) Act 1997* (No. 12 of 1997), s3.

imposed on the disposal of those beans imposed by the Board under that subsection; or

- (c) buys or sells cacao beans or cocoa beans at prices other than prices fixed by a notice under Subsection (1)(c) in circumstances where those prices apply,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

12. VACANCY ON THE BOARD.

A vacancy in the membership of the Board does not make invalid the exercise or performance of a power or function of the Board.

13. DELEGATION.

The Board may, by writing under its seal, delegate its functions and powers (except this power of delegation).

14. APPOINTMENT OF AGENTS BY BOARD.

The Board may authorize a person to act as agent for the Board inside or outside the country.

15. APPOINTMENT OF EMPLOYEES OF BOARD, ETC.

(1)⁴ ⁵There shall be an Executive Officer of the Board whose manner of appointment, suspension and dismissal is as specified in the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*.

(1A)⁶ ⁷The Board may appoint such other employees as it considers necessary for the efficient administration of its functions and powers.

(2) Subject to the provisions of the *Public Employment (Non-citizens) Act 1978* the Board may determine the terms and conditions of employment of its employees.

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

- (a) leave of absence on the ground of illness; and
- (b) furlough or pay instead of furlough (including pay to dependents on the death of the officer).

⁴ Section 15 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

⁵ Section 15 Subsection (1) substituted by No. 97 of 2006, Sched. 1.

⁶ Section 15 Subsection (1A) inserted by No. 97 of 2006, Sched. 1.

⁷ Section 15 Subsection (1A) inserted by No. 97 of 2006, Sched. 1.

(4)⁸ ⁹The offices of employees in the service of the Board are offices to which apply the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

⁸ Section 15(4) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s73.

⁹ Section 15(4) repealed and replaced by *Public Service (Management) (Consequential Amendments) Act 1986* (No. 29 of 1986), s73.

PART III. – FINANCE, ETC.**16. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.**

(1) The *Public Finances (Management) Act 1995*–

- (a) applies to the Board subject to the exceptions and modifications set out in Schedule 1; and
- (b) does not apply to the Cocoa Stabilization Fund otherwise than in relation to the audit of the Fund.

(2) For the purpose of Section 62 of the *Public Finances (Management) Act 1995* the Board is a trading enterprise.

17. MANAGEMENT LEVY.

(1) A levy, known as a management levy, is payable at the prescribed rate on cocoa beans and cocoa products intended for export.

(2) Different rates of management levy may be prescribed for different types or grades of cocoa beans and for different types of cocoa products.

(3) Subject to Section 18(a), the management levy shall be calculated, paid and collected as prescribed.

18. USE OF EXCESS MONEY.

If at any time the Board is satisfied that it is in possession of more money than it requires for the performance of its functions or the exercise of its powers it may–

- (a) by notice in the National Gazette suspend the obligation to pay the management levy imposed by Section 17 for the period specified in the notice; or
- (b) transfer such amount as it considers appropriate to the Cocoa Stabilization Fund.

PART IV. – COCOA STABILIZATION FUND.

19. THE COCOA STABILIZATION FUND.

(1) The Cocoa Stabilization Fund is hereby established.

(2) The Cocoa Stabilization Fund is not an asset of the Board but the Board shall administer the Fund as trustee.

(3) The Board shall administer the Cocoa Stabilization Fund with the object of establishing price stabilization, price equalization and stockholding arrangements within the cocoa industry.

(4) Although a person may have contributed to the Cocoa Stabilization Fund he is not entitled–

(a) to an interest in the Fund; and

(b) to payment from the Fund except in accordance with this Act.

20. PAYMENTS INTO THE COCOA STABILIZATION FUND.

The Board shall pay into the Cocoa Stabilization Fund money–

(a) received from the collection of the stabilization levy imposed under Section 21; and

(b) received as interest from money standing to the credit of the Fund invested under Section 22; and

(c) transferred to the Fund under Section 18(b); and

(d) received from the sale of cacao beans, cocoa beans or cocoa products purchased with money from the Fund in accordance with Section 23.

21. STABILIZATION LEVY.

(1) The Minister may, after consultation with–

(a) the Minister responsible for financial matters; and

(b) the Board,

by notice in the National Gazette, impose a levy, known as the stabilization levy, on cocoa beans and cocoa products intended for export.

(2) Different rates of stabilization levy may be imposed for different types or grades of cocoa beans and for different types of cocoa products.

(3) A notice under Subsection (1) shall specify–

(a) the rate or rates of stabilization levy; and

(b) the date from which the stabilization levy is payable.

(4) The stabilization levy shall be calculated, paid and collected as prescribed.

22. INVESTMENT OF MONEY IN COCOA STABILIZATION FUND.

The Board may invest money in the Cocoa Stabilization Fund in such manner as the Minister responsible for financial matters approves.

23. PURCHASE OF COCOA BEANS, ETC., FOR STABILIZATION OF PRICES, ETC.

If the Board is of the opinion that for the purpose of stabilizing or equalizing prices within the cocoa industry it is necessary for the Board to purchase cacao beans, cocoa beans or cocoa products in accordance with any international agreement relating to cocoa, it may do so with money in the Cocoa Stabilization Fund.

24. PAYMENTS FROM THE COCOA STABILIZATION FUND.

The Board shall not expend money in the Cocoa Stabilization Fund except—

- (a) in compliance with the Board's duty under Section 10(e); or
- (b) for the purchase of cacao beans, cocoa beans and cocoa products in accordance with Section 23; or
- (c) in payment of bounty under Section 25; or
- (d) with the Minister's approval—to recompense the costs necessarily incurred by the Board in administering the Fund.

25. PAYMENT OF BOUNTY FROM COCOA STABILIZATION FUND.

(1) The Minister may—

- (a) with the approval of the Minister responsible for financial matters; and
- (b) after consultation with the Board,

by notice in the National Gazette, make payable to cacao growers a bounty out of the Cocoa Stabilization Fund.

(2) Different rates of bounty may be made payable in respect of different types or grades of cacao beans.

(3) A notice under Subsection (1) shall specify—

- (a) the rate or rates of bounty; and
- (b) the date from which the bounty is payable.

(4) The bounty shall be calculated and payable as prescribed.

PART V. – REGISTRATION OF COCOA DEALERS.**26. REGISTRATION OF COCOA DEALERS, ETC.**

(1) The Board may, on payment of the prescribed fee, register–

- (a) a person as a person permitted to conduct a business of buying and selling or buying or selling cacao beans or partly processed cocoa beans; and
- (b) a person as a person permitted to manufacture cocoa beans or cocoa products; and
- (c) a person as a person permitted to export cocoa beans or cocoa products; and
- (d) premises, or proposed premises, as premises permitted to be used for processing or fermenting cacao beans.

(2) The Board, when registering persons or premises under Subsection (1), may make the registration subject to such conditions and restrictions as it considers appropriate in the circumstances.

(3) Following registration under Subsection (1) the Board shall issue to the registered person, or the owner or occupier of the registered premises, as the case may be, a Certificate of Registration, as prescribed.

(4) The Board shall endorse on a Certificate of Registration a note of any conditions or restrictions to which the registration has been made subject under Subsection (2).

(5) A registration under Subsection (1), unless cancelled under Subsection (6), remains in force until 30 September next following the date of registration.

(6) The Board may cancel a registration under Subsection (1) if it is satisfied that–

- (a) the registration was obtained–
 - (i) by means, or partly by means, of a false or misleading statement; or
 - (ii) by other improper means; or
- (b) the registered person, or in the case of registered premises, the owner or occupier of those premises–
 - (i) has failed, in the Board’s opinion, to comply with a condition or to observe a restriction noted on the Certificate of Registration issued to him under Subsection (3); or
 - (ii) has been convicted of an offence against this Act; or
 - (iii) has not, in the Board’s opinion, adequate finance, facilities or organization for the storage, control of quality, handling or

marketing of cacao beans, cocoa beans or cocoa products, as the case may be.

(7) The Board may refuse an application for registration under Subsection (1) if—

- (a) in the case of an application by a person to be registered under Subsection (1)(a), (b) or (c)—in the Board’s opinion the applicant has not adequate finance, facilities or organization for the storage, control of quality, handling or marketing of cacao beans, cocoa beans or cocoa products, as the case may be; or
- (b) in the case of an application to register premises, or proposed premises under Subsection (1)(d)—the Board is not satisfied—
 - (i) that the premises or proposed premises are or will be constructed, equipped or operated in an efficient manner; or
 - (ii) that the proposed method of processing will in general produce cocoa beans which will conform to the prescribed quality for export cocoa beans; or
 - (iii) that additional facilities are required; or
- (c) the applicant—
 - (i) has failed, in the Board’s opinion, to comply with a condition or to observe a restriction noted on a previous Certificate of Registration issued to him under Subsection (3); or
 - (ii) has been convicted of an offence under this Act; or
- (d) the application, if granted, would not, in the Board’s opinion, involve adequate—
 - (i) ownership; or
 - (ii) management or control,

by citizens; or

- (e) the application does not have, in the Board’s opinion, the support of the people of the area in which the applicant would, if registered, operate.

(8) A person aggrieved by the Board’s decision to—

- (a) grant registration under Subsection (1); or
- (b) cancel a registration in accordance with Subsection (6); or
- (c) refuse registration in accordance with Subsection (7),

may appeal to the Minister in the prescribed manner.

(9) The Minister, when considering an appeal under Subsection (8), is not bound to observe strict legal procedure or to apply technical rules of evidence.

(10) The Minister’s decision on an appeal under Subsection (8) is final and shall be implemented as if it were a decision of the Board.

(11) A person who—

- (a) not being a person registered under Subsection (1)(a)—conducts a business of buying and selling or buying or selling cacao beans; or
- (b) not being a person registered under Subsection (1)(b) or (c)—manufactures or exports cocoa beans or cocoa products, as the case may be; or
- (c) uses or permits premises owned or occupied by him, other than premises in respect of which he holds a Certificate of Registration issued under Subsection (3), to be used for processing or fermenting cacao beans or partly processed cocoa beans; or
- (d) being a person to whom a Certificate of Registration has been issued under Subsection (3)—fails to comply with a condition or to observe a restriction endorsed on the Certificate; or
- (e) for the purposes of obtaining a registration under Subsection (1)—gives false or misleading information to the Board,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00, or imprisonment for a term not exceeding six months or both.

(12) Where a person is convicted of an offence under Subsection (11) in relation to any cacao beans, cocoa beans or cocoa products the court which convicts him may, in addition to, or instead of, imposing any other penalty, order that the beans or products be forfeited to the Board.

(13) Beans or products forfeited to the Board under Subsection (12) are the property of the Board.

PART VI. – INSPECTORS.**27. APPOINTMENT OF COCOA BOARD INSPECTORS AND COCOA INSPECTORS.**

(1) The Board may, by notice in the National Gazette, appoint Cocoa Board Inspectors for the purposes of the Board.

(2) The Minister may, by notice in the National Gazette, appoint Cocoa Inspectors for the purposes of this Act.

28. POWERS OF INSPECTORS.

(1) For the purposes of this Act, Cocoa Board Inspectors and Cocoa Inspectors may at all reasonable times, with or without assistants—

- (a) enter and inspect any place, premises, aircraft, vehicle or vessel; and
- (b) seize and detain, pending an order of a court, cacao beans, cocoa beans or cocoa products in respect of which they have reasonable grounds for suspecting that an offence against this Act has been or is being committed; and
- (c) take samples of any cacao beans, cocoa beans or cocoa products; and
- (d) examine and take extracts from or copies of, documents evidencing the purchase, sale, delivery, ownership, place of production or destination of cacao beans, cocoa beans or cocoa products; and
- (e) require a person taking part, or apparently taking part, in the affairs of a business—
 - (i) buying or selling; or
 - (ii) processing or fermenting; or
 - (iii) exporting,

cacao beans, cocoa beans or cocoa products, as the case may be, to provide information relating to the affairs of that business.

(2) A person who—

- (a) hinders or obstructs a Cocoa Board Inspector or a Cocoa Inspector in the exercise or performance of his powers, functions or duties under this Act; or
- (b) fails or refuses, when requested by a Cocoa Board Inspector or a Cocoa Inspector, to produce a document in his possession or under his control for examination by an Inspector under Subsection (1)(d); or
- (c) fails or refuses to provide information when required under Subsection (1)(e),

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) The person in charge of any place, premises, aircraft, vehicle or vessel on or in which cacao beans, cocoa beans or cocoa products are produced, treated, handled, packed, stored or transported, who fails to give all reasonable assistance to a Cocoa Board Inspector or a Cocoa Inspector for the purpose of the exercise or performance of his powers, functions and duties under this Act is guilty of an offence.

Penalty: A fine not exceeding K500.00.

29. POWERS OF COCOA INSPECTORS IN RELATION TO EXPORT COCOA.

(1) Cocoa beans shall not be exported unless they have been examined by a Cocoa Inspector and the container in which those beans are packed has been marked in accordance with Subsection (3).

(2) For the purposes of making an examination of cocoa beans intended for export a Cocoa Inspector shall sample the beans in the prescribed manner.

(3) If a Cocoa Inspector, after examining cocoa beans intended for export, is satisfied that they conform to the prescribed quality for export cocoa he shall mark each container in which those beans are to be exported with the prescribed inspection mark.

(4) If a Cocoa Inspector, after examining cocoa beans intended for export, is satisfied that they do not conform to the prescribed quality for export cocoa he shall—

- (a) mark each container in which those beans were to have been exported with the prescribed rejection mark; and
- (b) give the owner or exporter of the cocoa beans a written statement of the reason for his decision.

(5) A person aggrieved by a decision of a Cocoa Inspector under this section may appeal to the Cocoa Appeal Committee of the province.

(6) A person who—

- (a) exports cocoa—
 - (i) which has not been examined in accordance with Subsection (1); or
 - (ii) in a container not marked in accordance with Subsection (3); or
- (b) obliterates, removes or tampers with—
 - (i) an inspection mark placed under Subsection (3); or
 - (ii) a rejection mark placed under Subsection (4); or
- (c) after a container of cocoa beans intended for export has been marked under Subsection (3)—adds to, removes from, or in any other way tampers with, the contents of the container without a Cocoa Inspector's approval,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

30. POWER OF INSPECTORS TO CONDEMN STORAGE SPACE.

(1) A Cocoa Board Inspector or a Cocoa Inspector may prohibit premises from being used for the storage of cocoa beans if he considers those premises unsuitable for that purpose.

(2) A person aggrieved by a decision of a Cocoa Board Inspector or a Cocoa Inspector under Subsection (1) may appeal to the Cocoa Appeal Committee of the province.

(3) A person who knowingly stores cocoa beans in premises where such storage has been prohibited under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K500.00.

31. IMMUNITY OF INSPECTORS.

Cocoa Board Inspectors and Cocoa Inspectors are not liable for damage necessarily caused by them in carrying out their powers, functions or duties under this Act.

PART VII. – MISCELLANEOUS.**32. COCOA APPEAL COMMITTEE OF A PROVINCE.**

(1) The Cocoa Appeal Committee of a province shall consist of–

- (a) an officer of the Department of the province responsible for primary industries, who shall be Chairman; and
- (b) two persons, not being officers, who represent cacao growers in the province,

appointed by the Board after consultation with the Head of the Department of the province.

(2) The Chairman of the Cocoa Appeal Committee shall determine–

- (a) the time and place of; and
- (b) the procedure to be followed at,

meetings of the Committee.

(3) The method of appeal is as prescribed.

(4) The Cocoa Appeal Committee is not bound to observe strict legal procedure or to apply technical rules of evidence.

33. SALE OF COCOA BEANS NOT IN ACCORDANCE WITH SAMPLE.

A person who sells or agrees to sell cocoa beans for export by sample and subsequently, wilfully or negligently exports, on the basis of that sample, cocoa beans which do not substantially conform to that sample is guilty of an offence.

Penalty: A fine not exceeding K500.00.

34. PROHIBITED EXPORTS.

Cocoa beans or cocoa products intended for export in respect of which a provision of this Act has not been complied with are prohibited exports under the *Customs Act 1951*.

35. RESTRICTED AREAS.

(1) The Minister may, after consultation with the Board, by notice in the National Gazette, declare that–

- (a) part of the country is a restricted area; and
- (b) only persons–
 - (i) registered under Section 26(1)(a); and
 - (ii) who are citizens or citizen-controlled corporations,

shall deal in cacao beans or partly processed cocoa beans within the restricted area; and

- (c) cacao beans or partly processed cocoa beans shall not be carried in a vehicle within the restricted area unless—
 - (i) the vehicle is—
 - (A) being operated by, or on behalf of, a person registered under Section 26(1)(a); and
 - (B) bears the prescribed distinguishing letters; or
 - (ii) the vehicle is being operated by, or on behalf of, the grower of the cacao beans.
- (2) Subject to Subsection (3), a person who—
 - (a) deals in; or
 - (b) carries in a vehicle,

cacao beans or partly processed cocoa beans contrary to a declaration made under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding six months.

(3) The Minister may, after consultation with the Board, exempt a person, or a class of persons, from compliance with all or any terms of a declaration made under Subsection (1).

36. BOARD NOT TO ENGAGE IN POLITICS.

The Board shall not—

- (a) spend money for a purpose connected with politics or a political party; or
- (b) become affiliated with a body, association or organization having political objectives.

37. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) information to be provided to the Board by persons engaged in the cocoa industry; and
- (b) quality standards for cacao beans, cocoa beans and cocoa products; and
- (c) rates of management levy payable under Section 17, and the manner in which that levy is to be calculated, paid and collected; and
- (d) the manner in which a stabilization levy imposed under Section 21 is to be calculated, paid and collected; and

- (e) the manner in which bounty to be paid out under Section 25 is to be calculated and paid; and
- (f) the manner of sampling cacao beans, cocoa beans and cocoa products whether intended for export or otherwise; and
- (g) marks to be placed on containers, containing cocoa beans intended for export, by—
 - (i) Cocoa Inspectors; and
 - (ii) exporters; and
- (h) the types, sizes and construction of containers to be used for cocoa beans intended for export; and
- (i) the method of appeal to the Cocoa Appeal Committee and the Minister; and
- (j) distinguishing marks for vehicles used by persons dealing in cacao beans or partly processed cocoa beans; and
- (k) fees to be paid to the Board; and
- (l) all matters relating to the implementation of the non-financial obligations of membership of any international cocoa organization including—
 - (i) requirements relating to export documentation; and
 - (ii) the forms of returns to be provided relating to—
 - (A) production; and
 - (B) consumption; and
 - (C) price; and
 - (D) stocks,
of cacao beans, cocoa beans and cocoa products, as the case may be; and
 - (iii) the marking of containers in which cocoa beans are exported; and
- (m) restrictions and conditions on the times during which and the manner in which cacao beans, cocoa beans and cocoa products may be transported; and
- (n) penalties, including minimum penalties, of fines not exceeding K1,000.00 and default penalties of fines not exceeding K50.00, for offences against the regulations; and
- (o) where a conviction of an offence against the regulations relates to any cacao beans, cocoa beans or cocoa products—that a court may order the beans or products be forfeited to the Board.

(2) Regulations under Subsection (1) may prescribe acts, matters or things by reference to acts, matters or things so prescribed from time to time by an international cocoa organization.

38. REPEALS.

The *Cocoa Industry Act* and *Cocoa Stabilization Levy (Validation) Act* 1976, are repealed.

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

Sec. 16.

<i>Provision</i>	<i>Modifications, etc.</i>
Section 51	Not applicable.
Section 56	Not applicable.
Section 59	Not applicable.
<i>Provision</i>	<i>Modifications, etc.</i>
Section 51	Not applicable.
Section 56	Not applicable.
Section 59	Not applicable.