

CHAPTER 18:10

FARMERS LICENSING AND LEVY ACT

Acts 20/1971, 18/1973, 20/1982, 1/1994, 15/1994, 22/2001 (s. 4); R.G.N. 375/1972.

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AN ACT to provide for the licensing of farmers; to provide for the payment and collection of levies on certain agricultural products; to provide for the establishment of levy accounts and the application of moneys therein; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 1st May, 1971.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Farmers Licensing and Levy Act [*Chapter 18:10*].

2 Interpretation

(1) In this Act—

“agriculture” includes aquaculture, horticulture, viticulture, forestry and the use of land for any purpose of husbandry, inclusive of the keeping or breeding of game, livestock, poultry, chinchillas or bees or the grazing of game or livestock or the growing of fruit, vegetables or the like;

“agricultural product” means any animal, aquatic organism or other thing whatsoever which is declared in terms of section *six* to be an agricultural product;

“animal” includes poultry;

“appropriate farmers union”, in relation to any person, means the farmers union of which that person is a member;

“appropriate producers association”, in relation to a producer of an agricultural product of a class specified in a notice in terms of section *seven*, means the association which has been declared in terms of that section to be the producers association representing producers of that class;

“class”, in relation to an agricultural product, includes grade, quality, standard and type;

“farmer” means—

(a) a person who normally derives his sole or principal means of livelihood from agriculture carried on by him in Zimbabwe, whatever the area of land on which he carries on agricultural operations; or

(b) a producers association;

“farmers union” means—

(a) the Commercial Farmers’ Union, represented by its governing body; or

(b) the Zimbabwe Farmers’ Union represented by its governing body; or

(c) any other association which has been declared to be a farmers union in terms of subsection (2);

“leviable agricultural product” means an agricultural product or class of agricultural product on which a levy has been imposed in terms of section *eight*;

“levying authority”, in relation to producers of any agricultural product, means—

(a) the producers association which is declared in terms of subsection (2) of section *seven* to be the levying authority representing those producers; or

(b) if no declaration has been made in terms of subsection (2) of section *seven*, the appropriate farmers union of those producers;

“licence” means a licence issued in terms of Part II;

“Minister” means the Minister of Agriculture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“producer” means a person who, by himself or through his employees or agents, produces an agricultural product in Zimbabwe for sale;

“producers association” means an association which is declared in terms of section *seven* to be a producers association.

(2) If the Minister is satisfied that any association represents the interests of a substantial number of farmers in Zimbabwe he may, by statutory instrument, declare that association to be a farmers union for the purposes of this Act, and may in like manner amend or revoke any such declaration.

(3) Whenever—

(a) the Minister has declared an association to be a farmers union in terms of subsection (2); or

(b) there is a change in the name of a union specified in the definition of “farmers union” in subsection (1), or if such a union ceases to exist;

the Minister may, by statutory instrument, amend the definition in order to reflect such declaration, change or cessation, as the case may be.

PART II

LICENSING OF FARMERS

3 Issue of licences to farmers

(1) Subject to this section, any farmer may apply to a farmers union for the issue of a licence to him, and shall submit with his application the appropriate fee fixed by the farmers union concerned in terms of subsection (1) of section *four*.

(2) On receipt of an application in terms of subsection (1), together with the appropriate fee, and after making such investigations into the applicant’s agricultural activities as it considers necessary, a farmers union may issue a licence to the applicant.

(3) A farmers union shall not refuse to issue a licence to an applicant in terms of subsection (2) on the ground that the applicant is not a member of the farmers union.

(4) A farmer who is aggrieved by a refusal of a farmers union to issue a licence to him in terms of subsection (2) may appeal in writing to the Minister against such refusal.

(5) On an appeal in terms of subsection (4), the Minister may confirm the refusal appealed against or direct the farmers union to issue a licence to the appellant or may give such other directions in the matter as he considers appropriate.

4 Licence fee

(1) Subject to this section, the fee payable by a farmer for a licence shall be such amount as may be fixed from time to time by the appropriate farmers union by notice in the *Gazette*.

(2) A fee shall not be fixed in terms of subsection (1) unless the proposed fee has been approved—

- (a) at an annual general meeting or congress or special meeting or congress of members of the farmers union at which not less than two-thirds of the members present and voting have voted in favour of such fee; or
- (b) if so resolved at a meeting referred to in paragraph (a), by a majority of the persons voting on a referendum of members of the farmers union which has been held for the purpose.

5 Application of licence fees

(1) All fees paid in respect of licences shall be paid into the funds of the appropriate farmers union and a separate account shall be kept by the farmers union in respect of such fees.

(2) The Minister shall approve in writing the objects, being objects which in his opinion are calculated to promote the interests of any section of the farming community, upon which any moneys referred to in subsection (1) may be expended by the farmers union and may at any time impose conditions subject to which any such moneys may be so expended.

(3) A farmers union shall not apply any moneys referred to in subsection (1) to any object other than one approved by the Minister in terms of subsection (2) and shall comply with any conditions imposed in terms of that subsection.

(4) If at any time it appears to the Minister that a farmers union has spent moneys referred to in subsection (1) in contravention of the provisions of subsection (3), he may require any person responsible for so spending the moneys to repay to the appropriate account the moneys so spent and for that purpose cause proceedings to be brought in a court of competent jurisdiction.

PART III

LEVIES

6 Declaration of agricultural products

The Minister, after consultation with the farmers unions, may, by statutory instrument, declare any animal, aquatic organism or any thing whatsoever which is produced in the course of agriculture, including carcasses of animals, pelts, hides or wool, to be an agricultural product for the purposes of this Act:

Provided that the Minister shall not declare—

- (a) tobacco or any product obtained therefrom; or
- (b) sugar cane or any product obtained therefrom; or
- (c) pigs, any pig product or any product obtained from pigs;

to be an agricultural product.

7 Producers associations

(1) If the Minister is satisfied that an association is representative of the producers of an agricultural product, he may, by statutory instrument, declare such association to be a producers association representing such classes of producers of that agricultural product as may be specified in that instrument.

(2) If the Minister is satisfied that a producers association declared in terms of subsection (1) is not administered by a farmers union, he may, by statutory instrument, declare such association to be a levying authority and may at any time thereafter, by statutory instrument, declare that such association shall cease to be a levying authority with effect from such date as may be specified in that notice.

(3) If, after a declaration in terms of subsection (1), the constitution or membership of a producers association is so changed as to result, in the opinion of the Minister, in that producers association ceasing to be representative of producers of a class specified in a notice made in terms of subsection (1), the Minister may thereafter amend that notice so as to omit any class of producers who, in his opinion, are no longer represented by that producers association.

(4) Every producers association which is administered by a farmers union shall in each year pay to that farmers union such contribution to the funds of the farmers union as may be agreed between the producers association and the farmers union or, failing such agreement, as may be fixed by the Minister.

8 Imposition of levy

(1) Subject to this section and the approval of the Minister, a levying authority may, by statutory instrument, declare that a levy shall be payable by such producers or classes of producers of an agricultural product as may be specified in that instrument.

Provided that a levying authority shall not require a levy to be paid by producers who are not members of the levying authority when the levy becomes payable.

(2) In fixing a levy in terms of subsection (1), the levying authority—

- (a) shall specify the rate of the levy; and
- (b) may—

- (i) provide that the levy shall be assessed at the time of the sale or other disposition of the agricultural product or otherwise;

- (ii) provide that the levy shall be assessed on the basis of the area of land or number of trees planted for the production of the agricultural product or otherwise;
- (iii) make different provision in respect of different classes of the agricultural product and in respect of different producers and classes of producers of the agricultural product;
- (iv) make no provision in respect of particular classes of the agricultural product or in respect of particular producers or classes of producers of the agricultural product;
- (v) exempt a particular class of producer or producers or a particular class of the agricultural product from payment of the whole or any portion of the levy;

and may, in classifying an agricultural product for the purposes of this paragraph, have regard, *inter alia*, to the purposes for which or the manner or the places or areas in which or the persons by whom the agricultural product is produced, consumed, utilized or dealt with.

(3) A levying authority shall not impose a levy in terms of subsection (1) unless—

- (a) in the case of a levying authority which is a farmers union, the proposed levy has been approved by a majority of the persons voting on a referendum of members of the appropriate producers association which has been held for the purpose:

Provided that if the farmers union does not have any producers association affiliated to it the reference in this paragraph to members of the producers association shall be construed as a reference to members of the farmers union;

- (b) in the case of a levying authority which is a producers association, the proposed levy has been approved by a majority of the persons voting on a referendum of members of the producers association which has been held for the purpose.

9 Payment of levy

(1) A producer of a leviable agricultural product shall pay in accordance with the provisions of this Act the levy imposed on such agricultural product.

Provided that no levy shall be payable in respect of agricultural produce which is consumed by the producer or by his employees or members of his household or which is utilized by him for the feeding of his livestock or poultry.

(2) A levy shall be payable to the levying authority which imposed the levy in such circumstances and at such times as may be specified by the levying authority in by-laws made in terms of section *seventeen*.

10 Withdrawal, variation or suspension of levy by levying authority

(1) Subject to subsection (2) and the approval of the Minister, a levying authority may, by statutory instrument, withdraw, vary or suspend, in whole or in part, any levy imposed in terms of section *eight*.

(2) Subsection (3) of section *eight* shall apply, *mutatis mutandis*, to—

- (a) the total withdrawal of a levy; or
- (b) the increase in the rate or incidence of a levy;

in terms of subsection (1).

11 Establishment of levy accounts

(1) A levying authority shall, when any levy is imposed in terms of section *eight*, establish in respect thereof a special account to be described by reference to the name of the class of agricultural product, into which shall be paid—

- (a) the proceeds of the levy thereon; and
- (b) any moneys granted for the purpose of promoting the interests of producers of the agricultural product by any person or authority which the person or the authority directs shall be payable to the account:

Provided that, where the levying authority is a farmers union which administers a producers association representing producers of the agricultural product concerned—

- (a) the farmers union shall pay the proceeds of the levy to that producers association after deducting the amount of any contribution referred to in subsection (4) of section *seven*; and
- (b) the producers association shall open a special account into which it shall pay—
 - (i) all moneys paid to it in terms of paragraph (a); and
 - (ii) any moneys granted for the purpose of promoting the interests of producers represented by the producers association, where the person who grants the moneys directs that they shall be paid into the account.

(2) Notwithstanding subsection (1), a farmers union may, with the approval of the Minister, establish one special account into which shall be paid the proceeds of all levies imposed by that farmers union:

Provided that, if at any time thereafter the Minister directs that the farmers union shall establish a separate account in terms of subsection (1) for each or any particular class of agricultural product in respect of which a levy has been imposed, the farmers union shall—

- (a) establish such separate account or accounts with effect from such date as the Minister may specify and thereafter subsection (1) shall apply in relation to that account; and

- (b) apportion to or between those separate accounts, as the case may be, any moneys previously collected from the levies imposed in terms of section *eight* in such amount or proportions as the Minister may specify.

12 Object of levies

(1) Subject to subsection (3), the funds of each levy account established in terms of section *twelve* shall be applied to objects calculated to promote generally the interests of producers of the particular agricultural product or class of agricultural product in respect of which the account relates.

(2) Without derogation from the generality of subsection (1), the funds of a levy account may be applied to—

- (a) research, whether in relation to the production of the agricultural product or the marketing thereof;
- (b) expenses incurred by the producers association in relation to the administration of the affairs of the association;
- (c) expenses incurred in the collection of the levy, including any costs referred to in subsection (2) of section *eighteen* and any amounts paid to persons for collecting and remitting the levy;
- (d) a contribution to the funds of the appropriate farmers union.

(3) Where a farmers union has been permitted, in terms of subsection (2) of section *eleven*, to establish one special account into which the proceeds from two or more levies are paid, the funds in that account shall be applied to such objects as are approved in writing by the Minister, being objects which, in his opinion, are calculated to promote generally the interests of producers of agricultural products in respect of which such levies have been imposed, and shall be applied in compliance with such conditions as the Minister may impose.

(4) The Minister may, by notice in writing to the farmers union concerned, amend or withdraw any approval referred to in subsection (3).

(5) If at any time it appears to the Minister that a farmers union or producers association has spent moneys from a levy account established in terms of section *eleven* otherwise than in accordance with the provisions of this section, he may—

- (a) require any person responsible for so spending the moneys to repay to the levy account the amount spent and for that purpose cause proceedings to be brought in a court of competent jurisdiction; and
- (b) pending repayment of any moneys in terms of paragraph (a), do both or either of the following—
 - (i) deal with the funds standing to the credit of the appropriate levy account in accordance with this section;
 - (ii) where the farmers union or producers association concerned is a levying authority, by statutory instrument, suspend the levy.

PART IV

GENERAL

13 Accounts of levying authorities

(1) Every farmers union and producers association which is required to establish a levy account in terms of section *eleven* shall keep proper accounts and other records relating thereto showing the manner in which moneys paid to it in terms of this Act have been dealt with.

(2) Every farmers union and producers association which is required to establish a levy account in terms of section *eleven* shall prepare and submit to the Minister a statement of accounts relating to the moneys referred to in subsection (1) in respect of each financial year of the farmers union or producers association, as the case may be, or such other period as the Minister may direct.

14 Appointment of auditors and audit of accounts of levying authority

(1) Every farmers union and producers association which is required to establish a levy account in terms of section *eleven* shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors under the Public Accountants and Auditors Act [*Chapter 27:12*].

(2) The accounts of a farmers union or producers association kept in terms of subsection (1) of section *thirteen* shall be examined annually by the auditors.

(3) The auditors shall make a report to the farmers union or producers association, as the case may be, and to the Minister on the statement of accounts prepared in terms of subsection (2) of section *thirteen* and shall state in that report whether—

- (a) subsections (1) and (3) of section *five* and section *eleven* have been complied with; and
- (b) any moneys disbursed from a levy account established in terms of section *eleven* have been applied in accordance with section *twelve*.

15 Power of Minister to obtain accounts and report

(1) If, more than three months after the end of the financial year of the farmers union or producers association concerned, or after the expiry of such other period as the Minister may have directed in terms of subsection (2) of section *thirteen*, the Minister has not received—

- (a) the statement of accounts which a farmers union or producers association is required to submit to him in terms of that subsection;
- (b) the report which the auditors of a farmers union or producers association are required to make to him in terms of subsection (3) of section *fourteen*;

the Minister may appoint one or more persons who are registered as public auditors under the Public Accountants and Auditors Act [*Chapter 27:12*] to prepare and submit to him the statement of accounts or the report, as the case may be, and such persons shall have all the powers of a person referred to in section *sixteen*.

(2) Any costs incurred by the Minister in taking any action in terms of subsection (1) shall be a debt due to the State by the farmers union or producers association concerned and may be recovered by the Minister by proceedings in a court of competent jurisdiction.

16 Inspection of records of levying authorities

Any person authorized by the Minister for the purpose may at all reasonable times call for the production of, have access to and ask for any books, documents, records or information relating to a levy which are in the possession or under the control of a farmers union or producers association or any employee or agent thereof in order to inspect the same and ascertain whether the provisions of this Act are being complied with.

17 Powers to make by-laws

(1) Subject to subsection (3), a levying authority may make by-laws providing for—

- (a) the registration of producers of an agricultural product or class of agricultural product in respect of which a levy has been imposed and the information to be supplied in connection with applications for registration;
- (b) the keeping of books, registers and accounts, the furnishing of returns and the supply of information relating to the production and consumption of and dealings in agricultural products or classes of agricultural products in respect of which a levy has been imposed by producers;
- (c) the inspection by persons authorized by the Minister of books, registers and accounts referred to in paragraph (b);
- (d) the manner in which levies shall be assessed, collected and remitted to the levying authority.

(2) Nothing in subsection (1) shall be construed as authorizing a levying authority to make by-laws compulsorily requiring any dealer or other person to collect levies on behalf of the levying authority.

(3) By-laws made in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in the *Gazette*.

18 Recovery of fees and levies

(1) A levying authority may, by civil proceedings in a court of competent jurisdiction, recover—

- (a) any fees payable to it in terms of Part II; or
- (b) the amount of any levy which is due to it in terms of Part III.

(2) Any costs payable by a levying authority in respect of an action for moneys referred to in paragraph (b) of subsection (1) may be paid from the funds in the levy account relating to the moneys in respect of which the action was brought.

19 Offences and penalties

(1) A person who—

- (a) fails to pay any levy payable by him in terms of Part II; or
- (b) fails or refuses to register as a producer of an agricultural product or class of agricultural product when required to do so in terms of this Act; or
- (c) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed or furnishes a false or incomplete return or supplies false or incomplete information; or
- (d) obstructs a person authorized by the Minister in the exercise of powers of inspection by or under this Act or on being directed to do so does not produce to that person for inspection or reveal any—
 - (i) books, registers or accounts relating to an agricultural product; or
 - (ii) books, documents, records or information relating to a levy;
 which are in his possession or under his control; or
- (e) contravenes a provision of any by-laws made in terms of section *seventeen* or an order or direction made or given thereunder with which it is his duty to comply;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment;

[Subsection as amended by section 4 of Act No. 22 of 2001]

(2) The court convicting a producer for an offence of failing or refusing to pay a levy in terms of Part III may, on the application of the prosecutor and in addition to any penalty which it may impose, give summary judgment in favour of the levying authority for the unpaid amount of the levy.

(3) A judgment given by a court in terms of subsection (2) shall have the same effect and may be executed in the same manner as if the judgment had been given in civil proceedings instituted in the court.

20 Powers of Minister on abolition or dissolution of farmers union or producers association or on declaration of farmers union

(1) Where the Minister in terms of this Act revokes any declaration of an association as a farmers union or a producers association, or where a farmers union or producers association is dissolved—

- (a) the union or association shall dispose of any moneys standing to the credit of any account kept by it in terms of section *six* or *twelve* in such manner as it considers will best achieve the objects upon which such moneys could be expended or applied in terms of section *five* or *twelve*, as the case may be;
- (b) the Minister may, by statutory instrument—
 - (i) declare that any notice or by-laws published by the union or association in terms of section *eight* or *seventeen* shall remain in force as if the notice or by-laws, as the case may be, had been published by such other levying authority as the Minister shall specify;
 - (ii) make such amendments to any notice or by-laws referred to in subparagraph (i), including the variation or suspension of any levy fixed therein, as he thinks necessary or desirable in order to give effect to a declaration in terms of subparagraph (i) or the objects for which the levy was imposed:
Provided that the Minister shall not increase the rate or incidence of any such levy;
 - (iii) extend the period of validity of any licences issued by the farmers union or declare that such licences shall be deemed to have been issued by such other farmers union as the Minister may specify.

(2) Where in terms of subsection (2) of section *two* the Minister declares an association to be a union, he may, by notice in the *Gazette*—

- (a) fix the period of validity of licences issued by the farmers union; and
- (b) fix the fees payable for licences issued by the farmers union;

and, until the farmers union makes provision to the contrary in terms of section *three* or *four*, it shall be deemed to have fixed those periods of validity and those fees in terms of this Act.