



*Tonga*

# **AGRICULTURAL COMMODITIES EXPORT ACT**

**Chapter 44.02**

**2016 Revised Edition**





# AGRICULTURAL COMMODITIES EXPORT ACT

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Tonga

# AGRICULTURAL COMMODITIES EXPORT ACT

## AN ACT TO REGULATE THE EXPORT OF AGRICULTURAL COMMODITIES<sup>1</sup>

Commencement [29th October 2002]

### PART 1- PRELIMINARY

#### 1 Short title

This Act may be cited as the Agricultural Commodities Export Act.

#### 2 Interpretation

In this Act unless the context otherwise requires —

“**agricultural commodity**” means all species of fruit, vegetables, root crops, spices and other plant materials;

“**Chief Executive Officer**” means the Government chief executive officer responsible for agriculture;<sup>2</sup>

“**Inspector**” means the Chief Executive Officer, any person designated as an Inspector under this Act or any person designated as an Inspector under the Plant Quarantine Act<sup>3</sup>;

“**Minister**” means the Minister responsible for agriculture;<sup>4</sup>

“**plant material**” means all materials of plant origin.

**3 Act binds the Crown**

This Act shall bind the Crown.

**PART 2 - ADMINISTRATION****4 Minister is authorised to carry out Act**

The Minister shall be responsible for administering this Act.

**5 Restrictions on export of agricultural commodities**

- (1) The Minister may, by notice published in the Gazette, declare that any agricultural commodity shall not be exported unless it has been examined and approved by an Inspector under this Act.
- (2) No person shall export or attempt to export any agricultural commodity in relation to which the Minister has made an order under subsection (1) which has not been examined and approved by an Inspector.

**6 Notice of intention to export**

- (1) Every person who intends to export any agricultural commodity declared under this Act shall give written notice of such intention to the Chief Executive Officer.
- (2) Upon the receipt of a written notice the Chief Executive Officer shall direct an inspection of the agricultural commodity.
- (3) The Inspector shall record the result of his inspection on the written notice and shall sign the form and return it to the exporter.

**7 Exporters and packers to comply with directions of an Inspector**

Every exporter and packer of agricultural commodities shall comply with all lawful directions of an Inspector relating to the packing of any agricultural commodities for export.

**8 Protection against claim**

The Government, and any Inspector, shall not be liable for any loss or damage resulting from the reasonable exercise of powers conferred by this Act.

## PART 3 - APPOINTMENT AND DUTIES OF INSPECTORS

### 9 Designation and duties of Inspectors

The Minister shall designate from the staff of the Ministry of Agriculture and Forestry, such Inspectors as may be necessary for the purposes of this Act.

### 10 Inspectors shall certify

- (1) An Inspector shall certify any consignment of agricultural commodities which he is satisfied meets the requirements of any regulations made under the Act and which complies with the grade or quality standards of the importing country.
- (2) An Inspector may, in the exercise of his duties under this Act —
  - (a) open or cause to be opened any package, case or container containing agricultural commodities intended for export;
  - (b) take samples for future examination from any agricultural commodities submitted to him and intended for export;
  - (c) close, fasten and seal any package, case or container containing agricultural commodities for export in accordance with the requirements of any regulations made under this Act;
  - (d) mark or label such package, case or container in accordance with the requirements of any regulations made under this Act to indicate that the contents of such package, case or container have been passed as suitable for export;
  - (e) prohibit the export of agricultural commodities which have not been packed for export in accordance with regulations made under this Act or which do not comply with the grade or quality standards of the importing country.

## PART 4 - OFFENCES AND PENALTIES

### 11 Interfering with an Inspector is an offence

Any person who —

- (a) directly or indirectly obstructs, hinders, interrupts, threatens or assaults an Inspector or person assisting an Inspector in the performance of his duty commits an offence and on conviction shall be liable to imprisonment for a period not exceeding 2 years or a fine not exceeding \$1,000 or to both such imprisonment and fine;

- (b) bribes or attempts to bribe an Inspector or person assisting an Inspector in the performance of his duty commits an offence and on conviction shall be liable to imprisonment for a period not exceeding 3 years.

## **12 Offences of Inspectors**

Any Inspector who —

- (a) accepts or solicits a bribe;
- (b) wilfully causes damage to the goods of an exporter;
- (c) deliberately issues to an exporter or his agent export documentation knowing that the commodity to which the documentation relates does not conform with any condition of this Act or of any regulation made under this Act or of any condition of the importing country;
- (d) prepares false documentation relating to goods which are the subject of this Act or who alters export documentation with the intention of deceiving an exporter, his agent or the plant health authority in the importing country;
- (e) deserts his duty or otherwise fails to properly discharge his duties,

commits an offence and on conviction shall be liable to imprisonment for a period not exceeding 3 years.

## **13 Offences and penalties**

(1) Any person who —

- (a) exports or attempts to export any agricultural commodity contrary to the provisions of any regulation made under the provisions of this Act;
- (b) exports or attempts to export any prescribed agricultural commodity which has not been examined and approved by an Inspector;
- (c) exports or attempts to export any agricultural commodity which has been harvested prior to the time during which harvesting of that agricultural commodity is permitted under any regulation made under the provisions of this Act;
- (d) fails to comply with or acts in contravention of any order, direction, requirement or condition made, given or imposed by an Inspector in the performance of his duty,

commits an offence and on conviction shall be liable to imprisonment for a period not exceeding 2 years or a fine not exceeding \$1,000 or to both such imprisonment and fine.

- (2) Any person who commits an offence against this Act or any regulation made thereunder for which no penalty is provided shall on conviction be liable to imprisonment a period not exceeding 12 months or a fine not exceeding \$1000 or to both such imprisonment and fine.



## PART 5 - MISCELLANEOUS

### 14 Regulations

The Minister may, with the consent of Cabinet, make regulations to carry out the purposes of this Act and in particular to provide for the following —

- (a) the manner in which any agricultural commodities are to be prepared, stored or packed for export;
- (b) the registration, control, inspection and conditions of operation of places where agricultural commodities intended for export may be handled, stored or packed;
- (c) the time and manner of harvesting, inspection, handling, shipping, transporting, possession or disposal of any agricultural commodity;
- (d) the export, distribution or marketing of agricultural commodities;
- (e) the appointment, powers and duties of Inspectors;
- (f) the training and accreditation of Inspectors, growers and staff working in places where agricultural commodities intended for export may be handled, stored or packed;
- (g) minimum standards of quality in respect of agricultural commodities for export;
- (h) the materials, method of construction and dimensions of packages intended for use in the export of agricultural commodities;
- (i) the marking and fastenings to be applied to packages, cases or containers containing agricultural commodities for export;
- (j) any fees to be charged under this Act; and
- (k) any other matter which is required or authorised to be prescribed.

### 15 Repeal and savings

- (1) The Fruit Export Act (Cap. 116) is hereby repealed.
- (2) Subject to subsection (3) all subsidiary legislation made by virtue of the Fruit Export Act is hereby repealed.
- (3) The Fruit Export (Vanilla) Regulations<sup>5</sup> and the Fruit Export (Buttercup Squash) Regulations<sup>6</sup> shall remain in force insofar as they are not inconsistent with this Act and shall be deemed for all purposes to have been made under this Act.

## ENDNOTES

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<sup>1</sup> **Act 5 of 2002**

Amended by Act 5 of 2012, commencement 30 July 2012

<sup>2</sup> Amended by Act 5 of 2012

<sup>3</sup> Cap. 44.10

<sup>4</sup> Amended by Act 5 of 2012

<sup>5</sup> Cap. 44.02.02

<sup>6</sup> Cap.44.02.01